RECORDATION NO. 14827 Filed 1425

OCT 30 1985 -2 30 PM

INTERSTATE COMMERCE COMMISSION

# PEPPER, HAMILTON & SCHEETZ

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302-652-2007

WRITER'S DIRECT DIAL NUMBER

(215) 893-3084


5-304A102

No.

Date OCT 31 1985

Fee $ 10.00

ICC Washington, D.C.

October 30, 1985

HAND DELIVER

Interstate Commerce Commission
Constitution Avenue and 12th Street, N.W.
Washington, D.C. 20423

Attention: Mildred Lee, Office of the Secretary, Public Records Section, Room 2303

Dear Ms. Lee:

Enclosed for filing in your office are three (3) originally executed and notarized copies of a Lease of Railroad Equipment dated as of October 21, 1985 between Consolidated Rail Corporation and Mercantile Trust Company, N.A. and this firm's check in the amount of $10.00 to cover your office's filing fee therefor. The addresses of the parties to the agreement are as follows:

Consolidated Rail Corporation
1310 Six Penn Center Plaza
Philadelphia, Pennsylvania 19103

Mercantile Trust Company, N.A.
721 Locust Street
St. Louis, Missouri 63101

The equipment to be leased pursuant to the subject agreement is listed on Schedule A attached to the agreements.

Counterpart - Lou's Parents

Please provide the representative of this firm who is delivering this package to you with a receipt of some sort for the documents described in the above.

Thanking you in advance for your attention to this matter, I am

Sincerely,

Carol G. Simcox
Legal Assistant

CGS/dtj
Enclosures
cc: Paula Pressman, Esquire
James A. Ounsworth, Esquire

# LEASE OF RAILROAD EQUIPMENT

Dated as of October 21, 1985

between

CONSOLIDATED RAIL CORPORATION

and

MERCANTILE TRUST COMPANY, N.A.

LEASE OF RAILROAD EQUIPMENT dated as of October 21, 1985, between CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (the "Lessee"), and Mercantile Trust Company, N.A., a Missouri corporation (the "Lessor").

WHEREAS, the Lessor is entering into two (2) Purchase Agreements (hereinafter referred to as the "Purchase Agreement") one dated as of September 20, 1985 with Thrall Car Manufacturing Company (the "Builder"), the other dated as of August 16, 1985 with Greenville Steel Car Company (also "the Builder") wherein the Builder has agreed to manufacture, sell, apply to Trailer Train Company ("TTX") flatcars to be supplied by Lessee, and deliver to the Lessor the units of railroad equipment described in Schedule A hereto (the "Equipment");

WHEREAS, the Lessee desires to lease such number of units of Equipment as are delivered and accepted and settled for under the Purchase Agreement (the "Units") at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS, Lessee has secured all necessary approvals from Trailer Train Company regarding the application of the Equipment to Trailer Train Company's flatcars;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

Section 1. Net Lease. This Lease is a net lease and except as expressly provided herein the Lessee shall not be entitled to any abatement of rent or additional rent, or setoff against or recoupment or reduction of rent or additional rent, including, but not limited to, abatements, setoffs, reductions or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Lessee against the Lessor under this Lease or the Purchase Agreement, or against the Builder or otherwise. The Lessee's obligations hereunder, including its obligations to pay all rentals, additional rentals and other amounts hereunder, shall be absolute and unconditional under any and all circumstances, and, except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention

of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. So long as no Event of Default exists hereunder, if Lessor or anyone claiming solely through it shall interfere with Lessee's possession and use of any Unit in accordance with the terms of the Lease, Lessee's obligation to pay rent with respect to such Unit hereunder shall abate for so long as such interference continues.

Section 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Purchase Agreement. Inspection shall occur at Builders' manufacturing location. Delivery shall occur at the Lessee point of interchange closest to the Builders' manufacturing location, with the risk of loss from the point of inspection to the point of delivery to be borne by the Lessee. Upon such delivery, and provided that each Unit shall be acceptable to Lessee following inspection, Lessee shall timely execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in the form annexed hereto as Schedule C, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this lease. The delivery, inspection and acceptance hereunder of any Unit of Equipment after December 31, 1985, shall be null and void and ineffective to subject such Unit to this Lease or to constitute acceptance hereof on behalf of the Lessor for any purpose whatsoever.

Section 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit, (i) interim rent in respect of each Unit, payable on January 2, 1986 (the "Basic Rent Commencement Date") in an amount equal to .0291523% of the Purchase Price of such Unit for each day from its date of funding by the Lessor hereunder to and including January 1, 1986, and (ii) basic rent in 24 consecutive semiannual payments in advance commencing January 2, 1986, and on each July 2 and January 2 thereafter to and including July 2, 1997 (each of such 24 consecutive dates being hereinafter called a "Rental Payment Date"). The rental payable on each Rental Payment Date for each Unit then subject to this Lease shall be in an amount equal to 4.72268% of the Purchase Price of such Unit in the case of the first twelve Rental Payment Dates and thereafter shall be 5.77215% of the Purchase Price of such Unit. Interim rent will be based on a 360 day year consisting of twelve months of 30 days each.

The base price or prices per Unit of the Equipment are set forth in Schedule A hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Lessor and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased; provided,

however, that in no event shall the Purchase Price of all Units accepted hereunder exceed $10,700,000.

If any of the Rental Payment Dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Philadelphia, Pennsylvania and St. Louis, Missouri are authorized or obligated to remain closed.

The basic rent set forth above and the related Casualty Values set forth in Schedule B hereto have been calculated on the assumption that all the delivered and accepted Units will be funded by the Lessor on November 15, 1985. If such assumption is not correct then such basic rent and interim rent and such Casualty Values payable by the Lessee hereunder on and after January 2, 1986, shall be increased or decreased, as the case may be, by such amount as shall in the reasonable opinion of the Lessor, cause the Lessor's Net Economic Return (as defined in Section 16(c) hereof) to equal the Net Economic Return that would have been realized by the Lessor if such assumption had been correct, provided, however, Lessor shall fund the Builder on or before December 31, 1985 for those Units delivered and accepted by Lessee.

All amounts payable by the Lessee hereunder shall be paid in immediately available funds. Lessee shall not pay any interim rent or basic rent prior to the date due.

Section 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of Sections 7 and 10 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to Sections 3 and 13.1 hereof ("Lease Term"). The obligations of the Lessee hereunder (including, but not limited to, the obligations under Sections 6, 7, 9, 14 and 16 hereof) shall survive the expiration or termination of the term of this Lease and the full payment of all amounts payable under this Lease, as shall the obligations of the Lessor under Sections 6, 7, 9, 14 and 16 hereof.

Section 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Schedule A hereto, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Title to this auto rack subject to documents filed with the Interstate Commerce Commission." with appropriate changes thereof as from time to time may be required by law, in the opinion of the Lessor, in order to protect the Lessor's title to and interest in such Unit and the rights of the Lessor under this Lease. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been

so marked and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor and duly filed and deposited by the Lessee in all public offices where this Lease shall have been filed and deposited and (ii) the Lessee shall have furnished the Lessor an opinion of counsel to the effect that such statement has been so filed and deposited, that such filing and deposit will protect the Lessor's rights in such Units and that no other filing, deposit or giving of notice with or to any federal, state or local government or agency thereof is necessary to protect the rights of the Lessor in such Units.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

Section 6. General Tax Indemnity

(a) Indemnity. The Lessee agrees to pay, and to indemnify and hold the Lessor harmless from, on an after-tax basis, all taxes, assessments, fees and charges together with any penalties, fines, additions to tax or interest thereon, however imposed, whether levied or imposed upon the Lessor by any Federal, state, District of Columbia or local government or governmental subdivision thereof, upon or with respect to, any Unit; the purchase, ownership, delivery, leasing, re-leasing, subleasing, possession, use, operation, maintenance, repair, condition, transfer of title, return or other disposition thereof; the indebtedness with respect thereto; the rentals, receipts or earnings arising therefrom; or this Agreement or any payment made pursuant to this Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed hereafter referred to as "General Taxes"); excluding, however: (i) United States Federal income taxes and any state, District of Columbia or any local subdivision of any thereof in which Lessor maintains its principal place of business or is otherwise subject to income of franchise taxation by reason of other transactions; (ii) any claim for penalties, fines or interest resulting from an act, omission or misrepresentation of Lessor or anyone acting under, through, or on behalf of Lessor (other than Lessee pursuant to this Section 6); and (iii) any General Taxes imposed upon Lessor as a result of the voluntary transfer of title, sale, or other disposition of the Units by Lessor or anyone claiming solely through or under Lessor.

(b) Payment. All amounts payable to the Lessor pursuant to this Section 6 shall be paid promptly in immediately available funds and in any event within 15 days after receipt by the Lessee of written demand therefor from the Lessor requesting reimburse-

ment or indemnification for any General Taxes, on the basis that the Lessor has paid or within 15 days expects to pay such amounts.

(c) Contest. If any proceeding (including the written claim or written threat of such proceeding) is commenced against the Lessor for any General Taxes, the Lessor shall promptly notify the Lessee. Lessor agrees to confer with Lessee, if so requested, and agrees to take such action in connection with contesting any such proceeding as the Lessee shall reasonably request provided, however, that:

(i) within 30 days after notice by the Lessor to Lessee of such proceeding the Lessee shall request that it be contested;

(ii) Lessor, at its sole option, may forego any and all administrative appeals, proceedings, hearings and conferences with any applicable agency with respect to any such claim, accept the findings of such agency or otherwise terminate any audit or other administrative proceedings and may, at its sole option, either pay the General Taxes and sue for a refund in such court as the Lessor shall elect, or contest the proceeding in any appropriate forum; provided, however, that Lessee shall have no obligation to indemnify Lessor for any such General Taxes, if as a result of Lessor's foregoing of any such administrative appeals, proceedings, hearings or conferences, Lessor shall lose the right to contest the merits of such imposition or levies; and

(iii) prior to taking such action, the Lessee at its expense shall furnish the Lessor in a timely manner with an opinion of independent tax counsel satisfactory to the Lessor to the effect that there exists a reasonable likelihood of the Lessor's prevailing on the merits in the contest of such proceeding;

it being understood, however, that in no event shall the Lessor be required to commence any proceeding pursuant to this paragraph (c) unless the Lessee shall have provided the Lessor with sufficient funds on an interest-free basis to pay such General Taxes as are required to be paid so to proceed.

(d) Costs of Contest. The Lessee shall indemnify the Lessor in a manner satisfactory to the Lessor for any liability or loss which the Lessor may incur from time to time as a result of participating in any proceeding described in paragraph (c) of this Section 6. The indemnification shall be an amount which, on an after-tax basis, shall be equal to all costs and expenses which the Lessor may incur from time to time in connection with any such proceeding or any appeal thereof, including, without limitation, reasonable attorneys' and accountants' fees and disbursements, and the amount of any interest, tax or penalty which may ultimately be due and payable as a result of any such proceeding. Such amounts shall be payable within 15 days after the presentation to Lessee

of appropriate documentation in reasonable detail of such costs, expenses, interest, taxes or penalties and the demand for payment thereof.

(e) Refund. If the Lessor shall obtain a refund of all or any part of such General Taxes paid by the Lessee or with the Lessee's advance of funds, the Lessor shall pay to the Lessee the amount of such refund, subject to the Lessee making the indemnification in paragraph (c) of this Section 6. If in addition to such refund the Lessor shall receive an amount representing interest on the amount of such refund, the Lessee shall be paid that proportion of such interest which is fairly attributable to General Taxes paid by the Lessee prior to the receipt of such refund or with an advance provided by the Lessee.

(f) Reports. In case any report or return is required to be made relating to any General Taxes, the Lessee will, at its own expense, make and timely file such reports and returns where permitted to do so under applicable rules and regulations (the interest of the Lessor in the Units to be shown in a manner satisfactory to the Lessor) or, where not so permitted, notify the Lessor of such requirement and at Lessee's expense will prepare and deliver such reports to the Lessor within a reasonable time prior to the time such reports are to be filed. Any expenses incurred by the Lessor with respect to the submission or execution of any such report or return, or the filing or recording thereof, shall be reimbursed to the Lessor by the Lessee in the manner provided in paragraph (d) of this Section 6. Lessor agrees to notify Lessee of any reporting or return requirements of which it is aware in the ordinary course of its principal business (other than reports or returns required in the railroad industry or for property or sales and use taxes) and to provide Lessee, in a timely manner, all information in the possession of Lessor which is reasonably required for the preparation and filing of such report or return.

Section 7. Maintenance; Casualty Occurrences; Insurance. The Lessee, at its own expense and in a manner no less thorough and complete than is the prudent industry standard for Class I line-haul railroads, will maintain, service and adhere to a preventive maintenance schedule with respect to each Unit which will include testing, repair and overhaul so that each Unit will remain (a) in as good operating condition as when delivered (ordinary wear and tear excepted), (b) in compliance with any and all applicable laws and regulations, and (c) suitable for immediate purchase or lease and immediate regular use by a Class I line-haul railroad. In no event shall any Unit be maintained on a basis less frequent than the maintenance basis employed as of the date hereof by the Lessee for any similar equipment.

In the event that any Unit shall be or become lost, stolen, destroyed or irreparably damaged, or in the opinion of Lessee worn out from any cause whatsoever, permanently returned to the Builder pursuant to any patent indemnity provision of the Purchase

Agreement, or taken or requisitioned by condemnation or otherwise by the United States Government or by any other government or governmental entity resulting in loss of possession by the Lessee for period of 90 consecutive days (such occurrences being hereinafter called "Casualty Occurrences"), prior to the return of such Unit in the manner set forth in Section 14 hereof, the Lessee shall promptly (but in any event within 60 days after such Casualty Occurrence) and fully notify the Lessor, with respect thereto. On the Rental Payment Date next succeeding such event provided any such loss, return, taking or requisition shall have continued for at least 90 consecutive days, the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit then due and payable or accrued to such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the Rental Payment Date, in accordance with Schedule B hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or permanent return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis and the Lessee may be a purchaser of such Unit (unless such Unit is declared worn out by Lessee) and shall notify the Lessor prior to any such purchase by the Lessee. Provided that the Lessee has previously paid the Casualty Value to the Lessor and provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor. The Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit permanently returned to the Builder pursuant to any patent indemnity provisions of the Purchase Agreement in an amount equal to any patent indemnity payment in respect of such Unit made by the Builder to the Lessor under the Purchase Agreement.

The Casualty Value of each Unit as of any Rental Payment Date shall be that amount for that Unit as is set forth in Schedule B hereto opposite such date.

Whenever any Unit shall suffer a Casualty Occurrence after the final payment of rent in respect thereof is due pursuant to Section 3 hereof and before such Unit shall have been returned in the manner provided in Section 14 hereof, the Lessee shall promptly (as provided above) and fully notify the Lessor with respect thereto and, except as provided in Section 14 hereof, pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to the amount for such Unit on the final Rental Payment Date following the Basic Rent Commencement Date. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or

complete destruction of such Unit or return to the Builder of such Unit), the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence, or any component thereof at the best price obtainable on an "as is, where is" basis and the Lessee may be a purchaser of such Unit (unless such Unit is declared worn out by Lessee) and shall notify the Lessor prior to any such purchase by the Lessee. Provided that the Lessee has previously paid the Casualty Value to the Lessor and provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

In the event of the requisition (other than a requisition which constitutes a Casualty Occurrence) for use by the United States Government or by any other government or governmental entity (hereinafter collectively called the "Government") of any Unit during the term of this Lease, all of the Lessee's obligation to pay rent under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Lessor pursuant to Section 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease, but the Lessee shall in all other respects comply with the provisions of said Section 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the term of this Lease shall be paid over to, or retained by, the Lessor.

Except as hereinabove in this Section 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance hereof by the Lessee hereunder.

The Lessee will, at all times prior to the return of the Units to the Lessor, at its own expense, cause to be carried and maintained casualty insurance and public liability insurance in respect of the Units at the time subject hereto, against such risks, in such amounts and on such terms and conditions as are satisfactory to the Lessor and, in any event, comparable in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it, but in no event shall such coverage be for amounts or against risks less

than the prudent industry standard for Class I line-haul railroads. All policies with respect to such insurance shall provide for payments to the Lessor, as additional named insured or loss payee, as its interests may appear, shall provide for at least 30 days' prior written notice by the insurance carrier to the Lessor in the event of cancellation, expiration or amendment (and the Lessee shall provide 30 days' prior written notice to the Lessor in any such event), shall include waivers by the insurer of all claims for premiums against the Lessor, and shall provide that losses are payable notwithstanding, among other things, any act of negligence of the Lessee, or the Lessor, more hazardous use or occupation of the Units than that permitted by such policies, any breach or violation by the Lessee or the Lessor, of any warranty, declaration, condition or other provision contained in any such policy, or foreclosure, notice of sale or any other proceeding in respect of the Units, or any change in the title to or ownership of any of the Units. Each such insurance policy shall expressly provide that all of the provisions thereof except the limits of liability (which shall be applicable to all insureds as a group) and liability for premiums (which shall be solely a liability of the Lessee) shall operate in the same manner as if they were a separate policy covering each insured and shall be primary without right of contribution from any insurance carried by the Lessor. The Lessee shall, not later than June 15 of each year, commencing June 15, 1986, furnish to the Lessor a certificate of an independent insurance broker acceptable to the Lessor evidencing the maintenance of the insurance required hereunder and shall, if requested by Lessor, furnish certificates evidencing renewal 15 days prior to the expiration date of such policy or policies. In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option on five business days' prior written notice to the Lessee provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest on the amount of such cost from the date of payment thereof at a rate per annum equal to the interest announced from time to time by Mercantile Trust Company National Association as its "prime rate" on commercial loans (which interest rate shall fluctuate as and when said prime rate shall change). If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, to the extent the Lessee has made payment of the Casualty Value in respect of such Unit and provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, pay such proceeds or condemnation payments to the Lessee. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing. Any amounts paid or payable to Lessor

under the foregoing insurance shall not be reduced on account of any amount which may be paid or payable to Lessor by reason of claims made under any other policies of insurance under which Lessor is a beneficiary or claimant. Notwithstanding the foregoing, the Lessor shall in no event be obligated to participate in the funding of any self-insurance program of the Lessee.

Section 8. Reports. On or before April 30 in each year, commencing with a calendar year 1986, the Lessee will furnish to the Lessor a certificate signed by the Chief Mechanical Officer of the Lessee (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by Section 5 hereof have been preserved or replaced. The Lessor, at its sole expense, shall have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

The Lessee shall promptly notify the Lessor of any occurrence of an Event of Default or other event which after notice or lapse of time or both would become an Event of Default, specifying such Event of Default and all such events and the nature and status thereof.

Section 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO THE LESSEE'S RIGHT TO QUIET ENJOYMENT THEREOF (EXCEPT AS TO ACTS OF THE LESSOR OR ANYONE CLAIMING THROUGH IT), OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EXCEPT THAT LESSOR REPRESENTS IT HAS VALID TITLE THERETO, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee, its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or

liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, subleasing, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that, prior to the expiration of this Lease, such laws or rules require any alteration, replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense (any such additions which are readily removable without material damage to the Units shall become the property of the Lessee if their removal would not adversely and materially affect the value of the Units and their installation was required by law for limited special use and not general operation); provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor (which shall be promptly given to Lessee), adversely affect the property or right of the Lessor under this lease. The Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely and materially affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are described in the following sentence. Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of the provisions contained hereinabove, (ii) the cost of which is included in the Lessor's basis for such Unit, (iii) in the course

of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit by the interchange rules of the Association of American Railroads or by the regulations of the Interstate Commerce Commission, the United States Department of Transportation or any other regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for additions required by law for limited special use and not general operation which are readily removable without causing material damage to the Units and without adversely and materially affecting the value of the Units) shall immediately be vested in the Lessor.

The Lessee agrees to indemnify, protect and hold harmless the Lessor from and against all losses, damages, injuries, liabilities, claims (including without limitation claims for strict liability in tort) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent, trademark and copyright liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default, an event of default or an Event of Default under this Lease or any sublease entered into pursuant to Section 12 hereunder, the ownership of any Unit, the manufacture, ordering, acquisition, use, operation, condition, purchase, sublease, delivery, acceptance, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in Section 14 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the expiration or termination of the term of this Lease.

Except as otherwise expressly provided in Section 14, the Lessee shall bear the responsibility and risk for, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any or all of the Units of Equipment.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required filing date (or, to the extent permissible, file on behalf of the Lessor) and all reports (other than tax returns) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor of the Units, or the leasing thereof to the Lessee.

Section 10. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an "Event of Default") shall occur:

(A) default shall be made in payment of any amount provided for in Section 3 or 7 hereof, and such default shall

continue for five (5) business days after receipt of written notice by Lessee of Lessor's failure to receive such payment;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

(C) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 30 days after the earlier of (i) written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied and (ii) the date on which such default shall first become known to any officer of the Lessee;

(D) any representation or warranty made by the Lessee contained herein (other than those contained in Section 16 herein), in the Assignment of Purchase Agreement, or in any certificate furnished to the Lessor in connection with the Lease or the Assignment of Purchase Agreement is untrue in any material respect as of the date of issuance or making thereof;

(E) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceeding in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed and otherwise in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision as the same may hereafter be amended; or

(F) any other proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of such obligations), and, unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease

shall not have been and shall not continue to have been duly assumed in writing pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceeding in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceeding shall have been commenced;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including but not limited to net after-tax losses of Federal, state and local income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents, subject to compliance with all mandatory requirements of law, enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may then be due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) including but not limited to any amounts due the Lessor pursuant to Section 6 and Section 16, provided, however, that Lessor shall not be relieved of its obligation, under Section 6(c) or Section 16(h) except as specifically provided therein, and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the

term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 8.50% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; appropriate refunds of any amounts previously collected from the Lessee which would be inconsistent with the amounts which would be due in the context of the facts and circumstances of such actual rental arrangement will be immediately repaid to the Lessee and if any additional amounts would be due the Lessor pursuant to this clause (x) based upon the facts and circumstances of such actual rental arrangement such amounts will be immediately paid to the Lessor, or (y) an amount equal to the excess, if any, of the Casualty Value as of the Rental Payment Date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the Rental Payment Date on or next preceding the date of termination over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amount due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all claims against the Lessor and its agent or agents for damages of whatever nature in connection with any retaking of any Unit in any reasonable and lawful manner. The Lessor and the Lessee agree that the Lessor shall be entitled to all rights (such rights being fundamental to the willingness of the Lessor to enter into this Lease) provided for in §1168 of the Bankruptcy Act or

any comparable provision of any amendment thereto, or of any other bankruptcy act, so that the Lessor shall have the right to take possession of the Equipment upon an Event of Default under this Lease regardless of whether the Lessee is in reorganization.

No failure by the Lessor to exercise, and no delay by the Lessor in exercising, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege by the Lessor preclude any other or future exercise thereof, or the exercise of any other right, power or privilege by the Lessor preclude any other or future exercise thereof, or the exercise of any other right, power or privilege.

Section 11. Return of Units Upon Default. If this Lease shall terminate pursuant to Section 10 hereof, the Lessee shall forthwith deliver possession of the Units and the flatcars to the Lessor and shall assign to Lessor all rights to the use of the flatcars. Each Unit so delivered shall be in the condition required by the first paragraph of Section 7 hereof. For the purpose of delivering possession, the Lessee shall:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) place such Units upon storage tracks of the Lessee or any of its affiliates as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; provided, however, that such storage without charge shall not extend beyond the latest storage date specified in Section 14 hereof; and

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

Except as specifically provided herein, the assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and, upon application to any court of equity having jurisdiciton, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own expense, maintain and keep the Equipment in the condition required by the first paragraph of Section 7 hereof and will permit and cooperate with the Lessor or any person designated by

it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same in a reasonable manner consistent with current industry practice. All rent and per diem charges earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

Without in any way limiting the foregoing obligations of the Lessee under this Section 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

Section 12. Assignment; Possession and Use. So long as no Event of Default exists hereunder, this Lease shall not be assignable in whole or in part by the Lessor or any affiliated company of Lessor without the written consent of the Lessee, which shall not be unreasonably withheld, but no such consent shall be required for an assignment to an affiliated company of Mercantile Bancorporation, Inc. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's successors and assigns.

So long as no Event of Default exists hereunder, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and, without the prior written consent of the Lessor, the Lessee may sublease the Units to, or permit their use by, a user incorporated in the United States of America (or any State thereof or the District of Columbia), upon lines of railroad owned or operated by the Lessee or such user or by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia), or over which the Lessee, such user, or such railroad company or companies have trackage rights or rights for operation of their trains, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic or in through or run-through service, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Lessor's consent, not to be unreasonably withheld, must be obtained for any sublease that is for a term longer than six months; provided, further, however, that the Lessee shall not sublease or permit the sublease or use of any Unit to service involving operation or maintenance outside the United States of America; and provided, further, however, that any such sublease or use shall be consistent with the provisions of Section 16 hereof. No such assignment or sublease shall relieve the Lessee of its obligations hereunder which shall be and remain those of a principal and not a surety.

Section 13. Options Upon Expiration of the Lease Term. Purchase Option. Provided that this Lease has not been earlier

terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor, not less than three (3) months prior to the end of term, elect to purchase all but not less than all the bi-level auto rack Units and/or all but not less than all the tri-level auto rack Units then subject to this Lease as are identified in Lessee's written notice, at a Fair Market Purchase Price payable in immediately available funds on the dates this Lease expires with respect to each Unit.

a) Upon payment of the purchase price of any Unit, pursuant to an election by the Lessee to purchase the Unit, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without warranties) for such Unit such as will transfer to the Lessee such title to such Unit as the Lessor derived from the Builder, free and clear of all liens, security interests and other encumbrances arising through the Lessor.

b) Fair Market Purchase Price shall be the price agreed to by Lessee and Lessor, in writing, as the cash purchase price that would obtain in an arm's length transaction between a purchaser and seller, both being informed and willing and neither being under any compulsion to buy or sell. Lessee's notice pursuant to the first sentence of this Section 13 shall include a conditional offer (conditioned solely on approval within a reasonable period of time by Lessee's board of directors, which approval Lessee's management shall seek if the conditional offer is accepted by Lessor) to Lessor to purchase the Units identified in such notice at the price designated therein by Lessee as the Fair Market Purchase Price. Such conditional offer shall remain open for acceptance by Lessor at all times from the date the notice is given until the 75th day before the end of the Lease Term with respect to such Units. During the period that such conditional offer remains open for acceptance by Lessor (but in no event beyond the end of the 60th day before the end of the Lease Term with respect to such Unit), Lessor shall not sell or agree to sell to anyone other than Lessee any Units so designated for a price equal to or lower than the price so offered by Lessee. If Lessor and Lessee do not reach agreement on the Fair Market Purchase Price by the end of the 75th day before the end of the Lease Term with respect to such Units, Lessor shall have no obligation to sell such Units to Lessee at any price and shall have no restrictions on its ability to sell to any other party at any price.

13.1 Renewal Options. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may elect to renew the Lease Term for three (3) additional one-year periods by written notice delivered to the Lessor not more than 270 and not less than 90 days prior to the end of the original term or the first or second extended term of this Lease, electing to extend such original or extended term of this Lease, as the case may be, in respect of all but not less than all the bi-level auto rack Units and/or all but not less than

all the tri-level auto rack Units then covered by this Lease for an additional one-year period commencing on the scheduled expiration of such original or extended term, as the case may be, of this Lease. Such election shall be irrevocable. The rental payable during each extended term shall be payable semiannually in advance on January 2 and June 2 of each year of such extended term and shall be in an amount equal to 2.62371% of the Purchase Price of such Units renewed.

Section 14. Disposition of Units upon Expiration of Term. Unless Lessee shall have purchased and paid for the units pursuant to the terms and conditions set forth in Section 13 hereof, or unless Lessee shall have renewed this Lease Agreement under any terms and conditions, or unless Lessee shall have paid Lessor the casualty value for the units, Lessor shall have the following options which will be exercised with at least 60 days written notice prior to the expiration of the term:

(1) Require Lessee to remove the Units from the flatcars and prepare the flatcars so that they are acceptable to TTX, all at Lessee's expense and risk. During the period of time necessary for removal of the Units, all related expenses (flatcar rental, insurance, transportation charges, etc.) shall be Lessee's responsibility; or

(2) Require the Lessee to store the Unit or Units on its storage tracks for a period not exceeding 90 days from the expiration date (the "Storage Period") and transport the same, at any time within the Storage Period, to any point that Lessor shall designate on Lessee's lines or to a point on Lessee's lines for a connecting carrier for shipment, the movement and storage of such units during the Storage Period to be at the expense and risk of the Lessee. During the Storage Period Lessor shall not be responsible for the expenses of storage. During the Storage Period under this option, Lessor shall be responsible for all rents, including but not limited to TTX rental due on the subject flatcars, from and after the date each flatcar is delivered to the storage location. If Lessor requests and provides funds, Lessee shall continue to make the subject flatcar rent payments to TTX on Lessor's behalf during the Storage Period, or if Lessor requests, Lessee shall assign whatever rights it has to the subject flatcars to another Class I railroad. Each Unit returned to the Lessor pursuant to this subparagraph shall be in the condition required by the first paragraph of Section 7 hereof. Subsequent to the expiration of the term and prior to any transfer of any Unit from the possession and control of Lessee to Lessor, the parties hereto and a representative of TTX shall inspect the Units for damage in a reasonable manner consistent with current industry practice. In the event that any Unit shall suffer a Casualty Occurrence during such Storage Period, the Lessee shall pay the Lessor the Casualty Value thereof as provided in Section 7 hereof, provided, however, Lessee shall have no obligation to pay Lessor the Casualty Value for a Unit which suffers a Casualty Occurrence while being operated by Lessor or its agents during the Storage Period.

During such Storage Period the Lessee will permit the Lessor or any person designated by it, including the authorized representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same in a reasonable manner and consistent with current industry practice; provided, however, that the Lessee shall not be liable, except in the case of negligence or strict liability of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, on behalf of either the Lessor or any prospective purchaser, lessee or user, such rights of inspection. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof.

Section 15. Recording. The Lessee, at Lessee's expense, will cause a Memorandum of this Lease and any assignment hereof to be filed in accordance with 49 U.S.C. §11303 and deposited with the Registrar General of Canada (and notice of such deposit to be given forth in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada prior to the delivery and acceptance of any Unit hereunder. The Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to its satisfaction, of the Lessor's rights in the Units, or for the purpose of carrying out the intention of this Lease, and the Lessee will promptly furnish to the Lessor evidence of all such filing, registering, depositing, recording and other acts which may be required under this Section 15, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor.

Section 16. (a) Assumed Tax Consequences. This Lease has been entered into on the assumption that it will have the following tax consequences (herein referred to as "Assumed Tax Consequences"):

(i) The transaction will be treated as a lease for tax purposes. The Lessor will be treated as the owner and lessor of each Unit and the Lessee will be treated as lessee of each Unit.

(ii) The Lessor shall be entitled to an investment tax credit in its 1985 tax year with respect to each Unit pursuant to Section 38 and related sections of the Internal Revenue Code of 1954 as in effect as of the date of this Agreement (the "Code") in an amount equal to 10 percent of the Lessor's tax basis of such Unit, or 8 percent of Lessor's cost for such Unit if Lessor makes the election under Code section 48(q) (with respect to all Units, the "Investment

Credit"), and there will be no recapture of the Investment Credit.

(iii) In the hands of the Lessor as of the date of delivery and acceptance of each Unit, such Unit will constitute (A) "recovery property" and "5-year property" within the meaning of Section 168 of the Code, and the Lessor will be entitled to the deductions allowed under Section 168 of the Code with respect to such Unit (the "Cost Recovery Deductions") and (B) "new section 38 property" as defined in Section 48(b) of the Code.

(iv) The Lessor will be entitled to the Cost Recovery Deductions with respect to the full amount of the Lessor's tax basis for each of the Units as reduced pursuant to Section 48(q) of the Code by 50% of the Investment Credit allowed to the Lessor with respect to the Units; the full amount of the Cost Recovery Deductions will be allowed to the Lessor and there will be no recapture of the Cost Recovery Deductions by the Lessor.

(v) The amounts of interest payable on any debt incurred with respect to this transaction shall be deductible as interest by the Lessor in accordance with its method of accounting (the "Interest Deductions").

(vi) The Lessor shall be entitled to depreciate the Units for state and local income tax purposes in the Lessor's home state (the "State and Local Tax Benefits").

(vii) Alterations, improvements and additions to any Unit by the Lessee will not result in any tax consequences to the Lessor.

(viii) All income and deductions with respect to the Units will be from sources within the United States.

It being expressly agreed, however, that the Lessee does not warrant or represent the accuracy of any of the assumptions set forth in subsection (a) of this Section.

(b) Lessee's Representations and Warranties. The Lessee represents and warrants for purposes of this Section that:

(i) the Lessee will not have done or caused any other person to have done anything to any of the Units of the Equipment so as to preclude "the original use of such property" within the meaning of Section 48(b) of the Code from commencing with the Lessor;

(ii) the Lessee will at all times during the Lease Term use or cause each of the Units to be used in a manner such that at all times the Units will constitute "section 38 property" within the meaning of Section 48(a) of the Code;

(iii) in the hands of the Lessor as of the date of delivery and acceptance of each Unit, such Unit will constitute (A) "recovery property" and "5-year property" within the meaning of Section 168 of the Code, and the Lessor will be entitled to the deductions allowed under Section 168 of the Code with respect to such Unit (the "Cost Recovery Deductions") and (B) "new section 38 property" as defined in Section 48(b) of the Code;

(iv) the Lessee has not made any claim and will not make any claim predicated on tax or legal ownership of the Units, including but not limited to, a claim of the Cost Recovery Deductions, the Investment Credit, the Interest Deductions or the State and Local Tax Benefits;

(v) at all times during the Lease Term the Lessee will not use nor permit the use of the Units in any taxable year of the Lessor "predominately outside the United States," within the meaning of Sections 168(f)(2) and 48(a)(2) of the Code;

(vi) at all times during the Lease Term, the Lessee will not use nor permit the use of the Units outside the United States of America in such a manner as to affect the ability of the Lessor to treat, for Federal income tax purposes, each item of income, deduction and credit relating to all Units subject to the Lease as being derived from or allocable to, sources within the United States of America;

(vii) as of the date of delivery and acceptance of each Unit, such Unit will not be property described in 48(a)(4), 48(a)(5), or 168(j) of the Code;

(viii) as of the date of delivery and acceptance of each Unit, such Unit will not be "limited use property" within the meaning of the Internal Revenue Service Revenue Procedure 76-30, 1976-2 C.B. 647.

(c) Indemnity. If by reason of any act of commission or omission (including any acts of commission or omission permitted to be taken pursuant to the Lease), misrepresentation, breach of any agreement, covenant, representation or warranty contained herein on the part of the Lessee, (i) the Lessor shall lose the right to claim or shall not claim (as the result of a good faith determination based upon the advice of independent tax counsel selected by the Lessor and approved by Lessee, which approval shall not be unreasonably withheld (hereinafter referred to as "Tax Counsel"), that such claim is not properly allowable by reason of any act of commission or omission, misrepresentation or breach of any agreement, covenant or warranty by the Lessee), shall suffer a disallowance of, or shall be required to recapture all or any portion of the Investment Credit, the Cost Recovery Deductions, the Interest Deductions, or State and Local Tax Benefits or such benefits are available as to the Lessor only at

later dates than assumed, or (ii) the Lessor shall suffer a disallowance of or be required to recapture an amount of foreign tax credit which would have been allowable to the Lessor if the Lessor had not participated in the transactions contemplated by the Lease (the "Foreign Tax Credit") (any of such events being a "Loss"), then the Lessee shall pay to the Lessor such amount or, from time to time, such amounts as, after deduction of all taxes required to be paid by the Lessor in respect to the receipt of such amounts shall be equal to the additional taxes, including penalties and interest, if any, payable by the Lessor from time to time as a result of any such Loss; provided that indemnification payments hereunder shall be an amount sufficient, on an after-tax basis, to preserve the Lessor's Net Economic Return plus, on an after-tax basis, an amount equal to any interest, additions to tax and/or penalties imposed as a result of the Loss which gave rise to indemnification hereunder. The Lessor's net after-tax economic and accounting yields and cash flows computed on the basis of such assumptions and the same method of accounting as were utilized by the Lessor in evaluating this transaction are herein called "Net Economic Return."

Upon the request of the Lessee, the Lessor will furnish to the Lessee a certificate of the Lessor's independent accountants, verifying that the amount of such indemnification payment is in an amount sufficient, but not greater than the amount necessary, on an after-tax basis assuming a combined Federal and Missouri tax rate of 48.11 percent, to preserve the Lessor's Net Economic Return.

(d) Subsequent Benefit. If, as a result of any Loss for which indemnification is paid by the Lessee hereunder the aggregate Federal income taxes paid or accrued by the Lessor for any taxable year shall be less than the amount of such taxes which would have been payable by the Lessor had no such Loss occurred, and if such reduction in taxes was not taken into account in determining the amount of indemnification payable by the Lessee hereunder, then the Lessor will pay the Lessee the amount of such difference in taxes plus an amount equal to any additional reductions in tax realized by the Lessor as a result of such payment; provided, however, that the Lessor shall not be obligated to make any payment pursuant to this Section 12 (i) so long as the Lessee is in default or a condition exist nor has an event occurred which with the lapse of time and/or the giving of notice would constitute a default under this Agreement, (ii) to the extent that such payment would cause the Lessor not to realize its Net Economic Return, or (iii) to the extent that such payment, together with all amounts previously paid by the Lessor, pursuant to this subsection (d) are in excess of all amounts previously paid by the Lessee with respect to such loss.

(e) Payment. All amounts payable to the Lessor hereunder shall be paid promptly and in immediately available funds and in any event within 15 days after receipt by the Lessee of a written demand therefor on the basis that the Lessor has paid or

within 15 days expects to pay such amounts. Any payment due to the Lessee from the Lessor pursuant to this Section shall be paid promptly and in any event within 15 days after the Lessor realizes any reduction in its income or franchise taxes based upon net income.

(f) Limitations on Special Tax Indemnities. Notwithstanding anything to the contrary hereinbefore set forth, no amount shall be payable to the Lessor as an indemnity under this Paragraph in respect of any Loss to the extent that such Loss results from the occurrence of any of the following events:

(i) a voluntary transfer or other voluntary disposition by the Lessor of any interest in any unit or any interest in the Lease, except pursuant to its exercise of any rights in respect of a Default;

(ii) the failure of the Lessor to claim (unless Tax Counsel has advised that such claim is not properly allowable by reason of acts of commission or omission, misrepresentations or breach of any agreement, covenant or warranty by the Lessee) the Investment Credit, the Cost Recovery Deductions, the Foreign Tax Credits, the Interest Deductions or the State and Local Tax Benefits;

(iii) the loss results directly from the negligent or willful misconduct of the Lessor that is inconsistent with the tax assumptions in section 16;

(iv) the failure of the Lessor to have sufficient liability for tax against which to credit the Investment Credit or to have sufficient income to benefit from the Cost Recovery Deductions or the Interest Deductions or to utilize the State and Local Tax Benefits, as the case may be;

(v) a Casualty Occurrence to the extent of the Casualty Value timely paid by the Lessee pursuant to Section 7 of the Lease; or

(vi) any changes in tax law.

(g) Indemnity for Improvements. If at any time the Lessor is required to include in its gross income an amount in respect of any improvement or addition to the units or any accession referred to in Section 9 hereof Lessee shall pay to the Lessor, as an indemnity, such amount or amounts as, after deduction of all taxes required to be paid by the Lessor in respect to the receipt of such amounts shall be equal to the additional taxes payable by the Lessor from time to time as a result of such Capital Expenditures plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditures provided that indemnification payments hereunder shall be an amount sufficient so that, after considering the tax and other effects of the Capital Expenditures and the receipt of

indemnification payments hereunder, shall preserve the Lessor's Net Economic Return. If as a result of any such Capital Expenditures the taxes paid by the Lessor for any taxable year shall be less than the amount of such taxes which would have been payable by the Lessor had not such Capital Expenditures been made, then the Lessor shall pay the Lessee the amount of such savings in taxes plus any additional tax benefits realized by the Lessor as the result of such payment; provided, however, that the Lessor shall not be obligated to make any payment pursuant to this sentence with respect to any Capital Expenditures (i) so long as the Lessee is currently in default or a condition exists or an event has occurred which with the lapse of time and/or the giving of notice would constitute a default under this Agreement, (ii) to the extent that any such payment would cause the Lessor not to realize its Net Economic Return or (iii) to the extent that such payment, together with all amounts previously paid by the Lessor to the Lessee pursuant to this subsection (g) with respect to such Capital Expenditure, are in excess of all amounts previously paid by the Lessee to the Lessor with respect to such Capital Expenditure.

(h) Contest of Disallowance of Tax Benefits. If a claim ("Claim") shall be made at any time which, if successful, would require the Lessee to indemnify the lessor under this Section, the Lessor hereby agrees to contest such Claim in good faith, taking into consideration such actions as the Lessee may reasonably request; provided, however, that:

(i) within 30 days after notice by the Lessor to the Lessee of such Claim, the Lessee shall request that such Claim be contested;

(ii) the Lessor shall control all proceedings in connection with such claim and , at its sole option, may forego or terminate any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service with respect to such Claim and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate United States District Court or the United States Claims Court as the Lessor shall elect, or contest such Claim in the United States Tax Court; provided, however, that the Lessee shall have no obligation to indemnify the Lessor for any such Taxes, if as a result of the Lessor's foregoing or terminating any such administrative appeals, proceedings, hearings, or conferences, the Lessor shall lose the right to contest the merits of such impositions of levies;

(iii) prior to the Lessor's taking any such requested action, the Lessee at the Lessee's expense shall have furnished the Lessor in a timely manner with an opinion of independent tax counsel satisfactory to the Lessor to the effect that there exists a reasonable likelihood of the

Lessor's prevailing on the merits in the contest of such Claim;

(iv) the Lessee shall have indemnified the Lessor in a manner satisfactory to the Lessor for any liability or loss directly related to such Claim which the Lessor may incur from time to time as the result of contesting such Claim and shall pay to the Lessor within 15 days after written demand therefor from time to time an amount which, on an after-tax basis, shall be equal to all costs and expenses which the Lessor may incur from time to time in connection with contesting or defending such Claim or any appeal thereof, including, without limitation, reasonable attorneys' and accountants' fees and disbursements, and the amount of any interest, additions to tax or penalties which may ultimately be payable as a result of contesting such Claim or appeal; and

(v) if the Lessor shall have elected hereunder to pay the tax claimed and then seek a refund, the Lessee will advance to the Lessor sufficient funds, on an interest-free basis, to pay the tax.

(i) Appeals. Notwithstanding any other obligation of the Lessor under this Section, the Lessor shall have no obligation to appeal any adverse trial or appellate court determination with respect to any Claim, unless:

(i) prior to the Lessor's making any such appeal, the Lessee shall, upon request by the Lessor, have furnished the Lessor with security, satisfactory to the Lessor, with respect to the Lessee's liability for indemnification under this Section 12 with respect to such Claim, together with at Lessee's expense a timely opinion of independent tax counsel satisfactory to the Lessor to the effect that there exists a reasonable likelihood of the Lessor prevailing on the merits of such appeal; and

(ii) with respect to any appeal of any appellate court determination, prior to the Lessor's making such appeal, the Lessee at its expense shall have timely furnished the Lessor with an opinion of independent tax counsel satisfactory to the Lessor to the effect that the likelihood of reversal of the adverse determination on appeal is substantially greater than the likelihood of affirmance.

(j) Deferral of Lessee's Liability. If any Claim shall be made and the Lessee shall have reasonably requested the Lessor to contest such Claim as above provided and shall have duly complied with all of the terms of subparagraph (h) of this Section, the Lessee's liability for indemnification hereunder (other than as provided in subparagraph (h)(iv) of this Section) shall be deferred until final determination of the liability of the Lessor. At such time the Lessee shall become obligated for

the payment of any indemnification hereunder resulting from the outcome of such contest, and the Lessor shall become obligated to refund to the Lessee any amount received as a refund by the Lessor fairly attributable to advances by the lessee hereunder, together with any interest received by the Lessor on such refund. Such obligations of the Lessor and the Lessee will first be set off against each other and any difference owing by either party shall be paid within 30 days after such final determination.

(k) Notice and Cooperation. The Lessor agrees promptly to notify the Lessee in writing of any Claim and agrees not to make payment of the tax claimed or to consent to the assessment of any deficiency relating directly to such Claim for at least 30 days after the giving of such notice and agrees to give to the Lessee any relevant information relating to such Claim which may be peculiarly within the knowledge of the Lessor and otherwise to cooperate with the Lessee in good faith in order to contest any such Claim.

(l) Waiver of Indemnification Settlement. Nothing contained in this Section shall require the Lessor to contest any Claim if the Lessor shall waive the payment by the Lessee of any amount that might otherwise be payable by the Lessee under this Section by way of indemnity in respect of such Claim. The Lessor shall not enter into a settlement or other compromise with respect to any Claim without the prior written consent of the Lessee, unless (i) the Lessor shall have complied with its obligations to contest under this Section or (ii) the Lessor shall waive its right to be indemnified with respect to such Claim under this Section.

(m) Survival of Indemnities. The respective liabilities of the Lessee and the Lessor to make indemnification payments pursuant to this Section 16 shall, notwithstanding any expiration or termination of the Lease, continue to exist until such indemnity payments are made by the Lessee and the lessor, respectively.

Section 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount on the overdue rentals and other obligations for the period of time during which they are overdue at a rate per annum equal to the interest announced from time to time by Mercantile Trust Company, National Association as its "prime rate" on commercial loans (which interest rate shall fluctuate as and when said prime rate shall change), or such lesser amount as may be legally enforceable. Interest hereunder shall be determined on the basis of a 360-day year of twelve 30-day months.

Section 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been received by the addressee on the date of transmission,

if by telex, or on the date of actual receipt, if by mail or by hand, if addressed as follows:

(a) if to the Lessor, 721 Locust Street, St. Louis, Missouri, 63101, Attention: Group Manager Leasing Operations

(b) if to the Lessee, at 1310 Six Penn Center Plaza, Philadelphia, Pennsylvania 19104, Attention of Assistant Treasurer-Financing;

or at such other address as either part shall have designated to the other party in writing.

Section 19. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

Section 20. Conditions Precedent to Funding. The Lessor's obligation to purchase and pay for Units on any delivery date shall be subject (a) to the terms and conditions of the Purchase Agreement and the Assignment of Purchase Agreement; (b) to the condition as of each delivery date that there shall not have been any material adverse change in the business prospects of financial condition of the Lessee since the date of the most recent financial statements furnished to Lessor, that would materially adversely affect Lessee's ability to perform any of its obligations under the Lease, the Purchase Agreement and the Assignment of Purchase Agreement, and the receipt by Lessor on or before such delivery date of a certificate of an officer of the Lessee, dated on or not more than five days before such date, to such effect; and (c) to the receipt by the Lessor on or before the first delivery date, in form and substance satisfactory to its counsel, of the following executed documents:

1) an opinion of Lessee's counsel dated as of such delivery date and to the same effect as Exhibit One (1) hereto;

2) certified copies of Lessee's Articles of Incorporation and Bylaws;

3) incumbency certificate(s) for the officer(s) signing each closing document for Lessee;

4) a letter signed by a duly authorized officer of TTX, addressed to Lessor and enforceable by it against TTX, in the form set forth on Exhibit Two (2) hereto;

5) certificate(s) evidencing the insurance coverage required by Section 7 hereof;

6) certificate regarding Lessee's representations and warranties;

7) Certificate(s) of Acceptance covering the Units to be purchased in the form set forth on Schedule C hereto;

8) Purchase Agreement;

9) fully executed Assignment of Purchase Agreement in form attached as Exhibits Three (3) and Four (4) hereto;

10) evidence of the manufacturers' consent to the Assignment of Purchase Agreement;

11) evidence of recordation of the Lease with the Interstate Commerce Commission.

Section 21. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Lessor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

Section 22. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. §11303 and such additional rights arising out of the filing or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Lease or any assignment hereof shall be filed or deposited.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

CONSOLIDATED RAIL CORPORATION

By _____

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

MERCANTILE TRUST COMPANY, N.A.

By _____

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA )
) ss.:
COUNTY OF PHILADELPHIA )

On this 31st day of October, 1985, before me personally appeared John A. Warner III, to me personally known, who, being by me duly sworn, says that he is Assistant Treasurer of CONSOLIDATED RAIL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Marianne C. Baker
Notary Public
MARIANNE C. BAKER
Notary Public, Philadelphia, Phila. Co.
My Commission Expires Aug. 4, 1986

STATE OF MISSOURI )
CITY ) ss.:
~~COUNTY~~ OF ST. LOUIS )

On this 29TH day of OCTOBER, 1985, before me personally appeared DEAN E. BRADLEY, to me personally known, who, being by me duly sworn, says that he is VICE PRES. of MERCANTILE TRUST COMPANY that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Kathleen A. Ruggeri
Notary Public

KATHLEEN A. RUGGERI
NOTARY PUBLIC — STATE OF MISSOURI
CITY OF ST. LOUIS
MY COMMISSION EXPIRES NOV. 4, 1988

SCHEDULE A TO LEASE

| Type | Builder | Quantity | Lessee's Identification Numbers (Both Inclusive) | Base Price Per Unit |
|---|---|---|---|---|
| Fully Enclosed Bi-Level Auto Racks | Greenville Steel Car Company | 100 | CR 1500-1599 | $29000 |
| Fully Enclosed Tri-Level Auto Racks | Thrall Car Manufacturing | 200 | CR 3300-3499 | $36800 |

SCHEDULE B TO LEASE

Casualty Value

The Casualty Value of any unit payable to Lessor as a result of any casualty occurrence shall mean an amount equal to the percentage of the cost of such unit determined in accordance with the following schedule:

| Rental Payment Date | Casualty Value (as % of Purchase Price) |
|---|---|
| 1/2/1986 | 96.823 |
| 7/2/1986 | 97.477 |
| 1/2/1987 | 97.773 |
| 7/2/1987 | 94.658 |
| 1/2/1988 | 94.279 |
| 7/2/1988 | 90.475 |
| 1/2/1989 | 89.384 |
| 7/2/1989 | 84.844 |
| 1/2/1990 | 82.992 |
| 7/2/1990 | 77.763 |
| 1/2/1991 | 75.526 |
| 7/2/1991 | 70.121 |
| 1/2/1992 | 66.674 |
| 7/2/1992 | 63.078 |
| 1/2/1993 | 59.361 |
| 7/2/1993 | 55.507 |
| 1/2/1994 | 51.526 |
| 7/2/1994 | 47.399 |
| 1/2/1995 | 43.136 |
| 7/2/1995 | 38.716 |
| 1/2/1996 | 34.151 |
| 7/2/1996 | 29.419 |
| 1/2/1997 | 24.530 |
| 7/2/1997 | 20.000 |
| 1/2/1998 and thereafter | 20.000 |

This schedule assumes that the rental due on the Rental Payment Date has been paid; if such rental has not been paid, the Casualty Value must be increased by the amount of such rental.

SCHEDULE C TO LEASE

Certificate of Acceptance

To:

I, the duly authorized representative for the Lessor and Consolidated Rail Corporation (the "Lessee") under the Lease of Railroad Equipment, dated as of October 21, 1984, do hereby certify that I inspected and accepted delivery thereunder of the following Units of Equipment:

TYPE OF EQUIPMENT:
MODEL:
DATE ACCEPTED:
NUMBER OF UNITS:
NUMBERED: CR
MANUFACTURER'S NUMBER:

I do further certify that the foregoing Units are in good order and condition, and appear to conform to the specifications, requirements and standards applicable thereto as provided in the Lease.

I do further certify that each of the foregoing Units has been marked by means of a stencil printed in contrasting colors upon each side of each such Unit in letters not less than one inch in height as follows:

"Title to this auto rack subject to documents filed with the Interstate Commerce Commission."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Builder named below for any warranties it has made with respect to the Equipment.

_____
Authorized Representative of Lessor and Lessee

BUILDER:

_____

CONRAIL

EXHIBIT ONE (1)

, 1985

Mercantile Trust Co., National Association
721 Locust Street
St. Louis, MO 63101

Re: Lease of Equipment

Gentlemen:

I have acted as counsel for Consolidated Rail Corporation (hereinafter called "Lessee"), a Pennsylvania corporation, in connection with proposed transactions described in a Lease of Railroad Equipment dated as of October 21, 1985 (the "Lease") between Lessee and Mercantile Trust Co., N.A. (the "Lessor"), whereby the Lessee will lease from Lessor certain Equipment (hereinafter called the "Equipment") described in the Lease, upon and subject to the terms and conditions of the said Lease. All capitalized terms used herein which are not otherwise defined herein shall have the meanings assigned to such terms in the Lease.

In rendering this opinion, I am relying upon my familiarity, as Associate General Counsel - Corporate for Lessee, with the matters upon which I express an opinion herein and upon the examination and review by me or by other members of the Law Department of the Consolidated Rail Corporation of such documents, facts and laws as we deemed relevant under the circumstances. The opinions set forth herein with respect to the due qualification, valid existence, and good standing of Lessee are based, in part, upon certificates or telegrams received from various public officials.

It is my opinion that:

1. Lessee is a corporation duly organized, validly existing, and in good standing under the laws of the Commonwealth of Pennsylvania and has full right, power and authority to carry on its business and own its property, to enter into, execute and deliver the Lease, the Purchase Agreement, the Assignment of Purchase Agreement dated as of October 21, 1985 (the "Documents") and all other documents contemplated therein and to perform each and all matters and things

required to be observed or performed by the Lessee thereunder.

2. Except as described in Schedule A hereto, to the best of my knowledge after due inquiry, Lessee is duly qualified to do business and is in good standing in each jurisdiction wherein the nature of the business transacted by Lessee makes such licensing or qualifying as a foreign corporation necessary.

3. The execution, delivery and performance of the Lease, including consummation of all transactions contemplated thereby (a) have been duly authorized by all necessary corporate action of Lessee, (b) do not require any consent or approval of Lessee's shareholders other than consents and approvals obtained prior to the date of this opinion, (c) do not violate Lessee's Articles of Incorporation or By-Laws as in effect on the date of this opinion, and (d) do not violate any provision of law, regulation, rule, order, writ, decree, judgment, injunction, or other determination of any court or governmental agency or any indenture, mortgage, conditional sale, lease, loan agreeement or other instrument to which it is a party or by which it or any of its property is bound, and will not conflict with or result in a breach or constitute a default under any such instrument, such as to render the Documents null and void, of which, after due inquiry, I am aware.

4. The Documents have each been duly authorized and executed by Lessee and, assuming that each has been duly authorized and executed by the other party thereto constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with the terms thereof except as enforcement may be limited by general principles of equity or by bankruptcy, insolvency or similar laws relating to the enforcement of creditors' rights generally.

6. Neither the execution and delivery by Lessee of the Lease, nor the payment and performances by Lessee of all of its obligations thereunder, requires the consent or approval of, the giving of notice to, or the registration, filing or recording with, or the taking of any other action in respect of, any federal, state or foreign government or governmental authority or agency of any other person.

7. No mortgage, deed of trust, or other lien which now covers or affects, any property or interest therein of Lessee, now attaches or hereafter will attach to the Equipment or any Unit of the Equipment, or in any manner affects or will affect adversely the right, title and interest of the Lessor.

8. Except as set forth on Schedule B hereto, to the best of my knowledge, after due inquiry, there is no litigation or other proceedings now pending or threatened against the Lessee, in any court or before any regulatory commission, board or other administrative governmental agency which would directly or indirectly adversely affect or impair the right, title and interest of the Lessor in the Equipment, or which, if decided adversely to Lessee, would materially adversely affect the business operations or financial condition of Lessee.

9. The Lease has been filed for record or recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11303 and with the Secretary of the Commonwealth of Pennsylvania in Harrisburg, Pennsylvania and the county clerk in Philadelphia, Pennsylvania pursuant to the Uniform Commercial Code. No other filing, recording or depositing is necessary to protect the Lessor's title to the Equipment in the United States.

Sincerely,

John F. Fansmith, Jr.
Associate General Counsel -
Corporate

1138 Six Penn Center Plaza
Philadelphia, PA 19103
(215) 977-5036

JFF/ps

SCHEDULE A

Lessee can not register as a foreign corporation in the State of Virginia because Virginia law does not permit a foreign corporation to operate a railroad in Virginia. Lessee is, however, granted the authority to use the name "Consolidated Rail Corporation" in the State of Virginia. Such authority is automatically renewed every four months unless the State is notified to the contrary.

SCHEDULE B

A. Great Lakes Ore Antitrust Litigation

On October 13, 1981, a federal grand jury returned an indictment charging the Company[1] and four other railroads with violating the antitrust laws in connection with the transloading and transportation of iron ore from the Great Lakes to steel producing areas. On November 12, 1981, the Company pleaded nolo contendere to the indictment and was fined $1 million, $900,000 of which was suspended. Subsequently, B&LE, B&O and C&O also pleaded nolo contendere and were fined. N&W went to trial and was acquitted on the ground that there was insufficient evidence to link it to the alleged conspiracy.

On September 17, 1980, Pinney Dock & Transport Company of Ashtabula, Ohio, filed suit against Penn Central, Chesapeake & Ohio Railway Company, Baltimore & Ohio Railroad Company, The Chessie System, Inc., Norfolk & Western Railway Company, and Bessemer & Lake Erie Railroad Company, alleging that the defendant companies, in violation of the federal antitrust laws, had conspired to restrain trade in, eliminate competition in, and monopolize and attempt to monopolize the business of providing dock services for iron ore and other goods moving over lower Great Lakes docks. Pinney Dock later amended its complaint to allege violations of the antitrust laws of the State of Ohio as well as of the federal antitrust laws. On March 5, 1981, Litton Industries, Inc. and three of its subsidiaries filed a similar action against the same defendants. The defendant companies filed answers to the complaints, denying that they have engaged in any such violations.

Penn Central was dismissed from the Pinney and Litton actions on November 9 and 10, 1982, respectively. On May 21, 1984, Judge Fullam, who had presided over Penn Central's reorganization proceedings, denied Pinney and Litton leave to pursue their antitrust actions against Penn Central.

Each of the defendant companies except Penn Central filed third party complaints against the Company, alleging that the Company is primarily responsible for any violations of the antitrust laws which may have taken place and any injury to Pinney Dock and Litton resulting therefrom, and also seeking damages from the Company by way of contribution or indemnity.

In the Pinney Dock case, the Company moved to dismiss the third-party complaints, on the ground that, by reason of an agreement entered into between the Company and Pinney Dock on June 18, 1980, settling Pinney Dock's antitrust claims against the

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1 The term "Company" when used in this Schedule, means Consolidated Rail Corporation.

Company and a covenant not to sue executed by Pinney Dock on January 16, 1981, the claims of those defendants against the Company may not be maintained under existing law. On February 2, 1982, the United States District Court dismissed the claims for indemnity and contribution under federal law on the ground that such actions are not maintainable under existing federal law; the Court refused to dismiss the claims for contribution under Ohio law but indicated it would do so upon a showing that the Company's settlement agreement with Pinney Dock was entered into in good faith. Similar rulings have been entered on motions to dismiss filed by the Company in the Litton case. On November 15, 1983, the remaining third-party claims against the Company in the Pinney and Litton cases were, pursuant to agreement, dismissed without prejudice.

On March 15, 1982, Dart Trucking Company, Inc., in one action, and Wills Trucking, Inc., Consolidated Dock, Inc., and Consolidated Dock and Storage, Inc., in a separate action, filed suit in the Northern District of Ohio against the five railroads named in the Pinney Dock action, as well as against the Company and the Pittsburgh & Lake Erie Railroad Company, alleging violations of the antitrust laws similar to those alleged in the Pinney and Litton complaints. Dart Trucking Company, Inc. has since voluntarily dismissed its action with prejudice. A similar action was filed on February 23, 1983, by Tauro Bros. Trucking Co., Inc. On October 8, 1982, R. Weise Trucking, Inc. and James H. Cowles, d/b/a James Cowles Trucking Company, filed a purported class action on behalf of "all motor common carriers that could have transported iron ore from the docks on Lake Erie during all or part of the period from 1956 to 1978", in the United States District Court for the District of Columbia against the Baltimore & Ohio Railroad Company, Bessemer & Lake Erie, Chesapeake & Ohio Railroad Company, Consolidated Rail Corporation and Norfolk & Western Railway Company, alleging antitrust violations similar to those alleged in the Pinney Complaint. The case was subsequently transferred to the Northern District of Ohio and on April 11, 1984, the Court granted defendants' motion to strike the class action allegations, thus denying class action certification to plaintiffs. On February 3, 1984, another trucking company, C. D. Ambrosia Trucking Company, filed suit against the Company, the Chesapeake & Ohio Railway Company, Baltimore & Ohio Railway Company, CSX Corporation, Norfolk & Western Railway Company, Bessemer & Lake Erie Railroad Company and the Penn Central Corporation, alleging antitrust violations similar to those alleged in the Pinney Dock Case and, in addition, alleging that the railroads acted to restrain truck backhauls of coal to the Lake Erie docks.

In March 1984, a dock operator, David W. Reaney, the Reaney Dock Company and the Grand River Lime Company filed suit against the Company, all of the defendants in the Ambrosia case and the Pittsburgh and Lake Erie Railroad Company, Inc. alleging the same antitrust violations as in the Ambrosia case.

On June 13, 1983, Jones & Laughlin Steel Incorporated filed a treble-damage action against the railroads named in the government indictment and against Penn Central Corporation, alleging that violations similar to those alleged in the Pinney Complaint had significantly increased Jones & Laughlin's costs of manufacturing, distributing and selling steel and steel products. On November 8, 1983, similar actions were filed against the same defendants by National Steel Corporation and Wheeling-Pittsburgh Steel Corporation and on January 12, 1984, Republic Steel Corporation added the Company as a defendant in a previously filed similar action. All of the steel company plaintiffs allege that they have not yet ascertained the precise amount of their damages.

On April 17, 1984, the Judicial Panel on Multidistrict Litigation acted on the Company's and Penn Central's motion and ordered that the cases brought by Wills Trucking, R. Weiss Trucking, C. D. Ambrosia Trucking, Jones & Laughlin, Wheeling-Pittsburgh, National Steel and Republic Steel be transferred to the District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings in a single forum.

B. Grain Antitrust Litigation

In October 1982, the Company, together with other major eastern railroads and the Traffic Executive Association - Eastern Railroads, was named as a defendant in five treble damage actions alleging violations of the antitrust laws with respect to trade and commerce in wheat freight carriage. The Complaints each allege that the defendants conspired to fix the rates charged for wheat freight carriage. Pillsbury Company, General Mills, Inc., and DCA Food Industries, Inc. are plaintiffs in three of the actions. The other two actions, brought by Little Crow Milling Company, Inc. and by Midstate Mills, Inc., purport to be class actions on behalf of all persons who shipped wheat and/or wheat products by rail from Chicago and other gateways to eastern destinations. No determination has yet been made as to whether these actions are properly maintainable as class actions.

On February 6, 1984, the Court granted the defendants' motion for summary judgment on the ground that defendants' conduct was impliedly immune from the antitrust laws. On March 5, 21 and 28, 1984, the respective plaintiffs filed notices of appeal of this decision with the United States Court of Appeals for the Seventh Circuit. On April 17, 1985, the Seventh Circuit affirmed the district court's finding of implied immunity for the railroads from the antitrust laws and upheld the dismissal of the suit. All the railroad defendants negotiated individual settlement agreements with Pillsbury, General Mills and DCA Food Industries.

C. Canadian Issues

1. Canada Southern Lease Arbitration

By letter dated June 25, 1976, CSR, approximately 72% of the outstanding stock of which was then owned by the Company (which stock interest the Company conveyed on April 30, 1985), invoked the arbitration clause of the 1903 lease of its properties in order to arbitrate certain claims against the prior lessee, Michigan Central Railroad Company (Michigan Central), a subsidiary of Penn Central, and/or the prior sublessee Penn Central. In response to the arbitration, Michigan Central and Penn Central each commenced a separate suit against CSR seeking to enjoin the arbitration. In June 1979, CSR commenced a suit in the Supreme Court of Ontario, Canada against Michigan Central and Penn Central asserting substantially the same breaches of the lease which constituted the basis for the prior arbitration proceedings. The suit sought damages with respect to certain of CSR's claims and declaratory relief and an accounting with respect to other claims or, in the alternative to all of its claims, payment of damages in the amount of $60,000,000. In 1983, CSR amended it complaint to increase the amount sought to approximately $200,000,000. On November 26, 1979, Penn Central and Michigan Central served on CSR a Statement of Defense and Counter-claim to the suit filed in June 1979. Penn Central and Michigan Central have also instituted a third-party action against the Company in which they contend that, to the extent that they are liable to CSR, they are entitled to indemnification and contribution from the Company. An agreement has been signed between CSR and the Company that would preserve CSR's ability to assert certain unspecified lease claims against the Company. Depending on the outcome of CSR's suit against Michigan Central and Penn Central, CSR may institute suit alleging such claims.

The parties have executed a settlement agreement pursuant to which minority shares of CSR (other than those held by a wholly-owned Penn Central subsidiary) will be redeemed or otherwise acquired for $507 Canadian per share. Approximately 10,500 shares would be redeemed or acquired. This transaction, which is subject to approval by a majority of the shareholders whose shares would be redeemed, has been approved by CSR's Board of Directors. Pursuant to the settlement agreement, the Company is obligated to bear 20% of any judgment (including litigation costs) which may be imposed as a result of any of the affected shareholders seeking appraisal rights.

2. Canadian Companies

In connection with the Conveyance, the Company acquired the stock and leasehold interests of several Canadian companies, including the St. Lawrence & Adirondack Railway Company (STL&A). The interests in these companies were conveyed subject to the Company's obtaining requisite regulatory and governmental approvals in Canada. The Company obtained such approvals for all companies

except STL&A and sold its interests in said companies on April 30, 1985. Approval for STL&A has not yet been obtained, although the Company continues to operate STL&A under interim operating authority. If regulatory approval for STL&A is not obtained, the Company's interest in STL&A could revert to the United States Government which, pursuant to Valuation Case Settlement, succeeded to the potential reverter interest of Penn Central and Michigan Central in the Canadian Properties. In the event of such reverter, the Company may be obligated to indemnify Penn Central in connection with any common carrier obligation that Penn Central may be required to perform.

D. Overhead Bridges - The Company's Obligation

Responsibility for the substantial costs involved in the maintenance, repair and rehabilitation of the approximately 1,230 highway bridges over the rail lines of the Company, and attendant liabilities in respect thereof, has become an issue in various jurisdictions in which the Company operates. In a number of cases the Company has been requested to share in the cost of the repair or replacement of bridges carrying highways over the Company's system and, in some of those cases, a portion of those repair or replacement costs has been imposed upon the Company. In 1983, these costs amounted to approximately $412,000, all of which were charged to operating expenses.

Complex legal problems, including identification of ownership, interpretation of legal instruments and federal and state laws, are involved in a determination of this question and the answer may depend upon the circumstances surrounding each case. It is probable that further claims of this nature will be asserted and, in states where the law so provides, it is likely that the appropriate state authority will impose some portion of the repair costs of specific bridges upon the Company. Each bridge must be considered individually as to the circumstances under which it was originally constructed, the existence of any contract pertaining to it, and the applicable state law. Although it is therefore not possible to assess the total potential liability, it is management's opinion that it is reasonably possible that the Company ultimately will be held liable for a substantial portion of these repairs. It is, however, believed unlikely that the maximum yearly exposure in the short term will exceed $585,000, which would be charged to operating expenses on a prospective basis as the ultimate liability for each claim is determined. This exposure derives from state law and may exist independently of questions of ownership of the bridges.

If it is concluded that the Company has the same responsibilities and liabilities as the predecessor companies, management estimates that there are approximately 280 overhead bridges which require immediate repairs or rehabilitation for which the Company would have total responsibility. It is estimated that it would cost $16.7 million to perform this work, most of which would be

capitalized when and if incurred, and depreciated over future periods.

It is further estimated that about 50% of the 1,230 bridges for which the Company could be held to have total or partial responsibility will require extensive repairs in the next five years.

If the Company were held to be the owner of all such bridges and if the Company were required to bear the full cost of rehabilitation and/or replacement of all such bridges, the aggregate exposure could be in excess of $276,000,000.

E. Overhead and Underpass Structures on Lines Abandoned Under NERSA

Responsibility for the substantial costs which would be incurred if removal were required of the railroad structures on Company lines filed for abandonment under the expedited procedures permitted by the Northeast Rail Service Act and not subsequently sold has become an issue in various jurisdictions in which the Company operates.

Complex legal problems, including interpretation of legal instruments and Federal and State laws, are involved in a determination of this question and the answer may depend upon the circumstances surrounding each case. In states where the law so provides, it is likely that some states will impose upon the Company the obligation of removal of specific bridges. Each bridge must be considered individually as to the circumstances under which it was originally constructed, the existence of any contract pertaining to it, and the applicable state law.

Management estimates the worst case aggregate exposure for such structures to be $340,000,000 as of September 30, 1984. However, this exposure will be reduced by subsequent sales of abandonment properties (and related responsibility for these structures) and the proceeds received from these sales (available to offset liabilities on abandoned properties not sold). The potential exposure for bridge removal obligations as well as possibility for sales of lines filed for abandonment were considered in determining the overall abandonment reserve in 1981. As of September 30, 1984, the balance of the reserve is $94,301,421 which has been recorded. This reserve is designated to cover the filed abandonments and the estimated lines to be filed under the expedited abandonment process.

F. Environmental Matters

The Company is subject to various federal, state and local laws and regulations regarding environmental matters. The Company has received numerous notices of violations of such laws and regulations, and either has taken or plans to take appropriate steps to correct the problems cited or to contest the application

of the laws or regulations to the particular facts involved. It is not expected that the penalties which the Company will incur in respect to those violations will exceed, in the aggregate, $150,000 per annum.

As of April 1, 1984, Conrail is a defendant in four actions with claims in excess of $100,000 for violations of environmental laws.

In United States v. Conrail, pending in the Northern District of Ohio, the EPA is seeking abatement of fugitive dust emissions at the Ashtabula coal dock, allegedly in violation of the Clean Air Act and Ohio air regulations. The EPA also seeks penalties of up to $25,000 per day dating back to the early 1970's for the alleged violations. Conrail is negotiating with the EPA to settle this action. The cost of abatement might reach $3 million. Currently, Plantiff is seeking $1.5 million in penalties while Conrail contends that it is entitled to offsets which eliminate any penalty.

In Hudson River Sloop Clearwater v. Conrail, an environmental group which is claiming Clean Water Act discharge violations at Selkirk Yard sought abatement of the violations, imposition of fines of up to $10,000 per day from 1976, and attorneys' fees. Conrail is effecting compliance through a consent order with the New York DEC agreed to before institution of this action. Plaintiff filed a motion for partial summary judgement in January, 1984. In March, 1984 the Company filed a motion to dismiss plaintiff's complaint, or in the alternative, a motion for summary judgement and a motion in opposition to Plaintiff's motion for partial summary judgement. On July 2, 1984, the Court granted Conrail's motion for summary judgment. Plaintiff has appealed and the matter is pending in the United States Court of Appeals for the Second Circuit.

In New York v. Conrail, the State seeks $500,000 for the cost of the cleanup of oil which leaked into the Canisteo River at Hornell, New York plus $25,000,000 in penalties. Conrail has denied responsibility since it did little or no locomotive fueling at Hornell; moreover, the land was sold to the Hornell Industrial Redevelopment Agency prior to the oil discharge. The company filed third party complaints against both the Erie Lackawanna Inc., and the City of Hornell Industrial Development Agency. Conrail's chances of prevailing are better than average.

In Friends of the Earth v. Conrail, pending in the Northern District of New York, two environmental groups have sued Conrail under the citizen suit provisions of the Clean Water Act for alleged violations of Conrail's discharge permit at DeWitt Yard, New York. Plaintiffs seek an injunction against further violations, fines of up to $10,000 per day from 1977, and attorneys' fees. Pursuant to a 1979 consent decree between Conrail and the New York DEC, Conrail spent $1.3 million to upgrade its wastewater

treatment system and to construct a system to discharge sanitary waste to the county sewage plant. The existence of the consent order and Conrail's compliance efforts will aid significantly in the defense of this action. The Court granted Conrail's motion for summary judgment on December 27, 1984. Plaintiffs have appealed to the Second Circuit and the case is pending.

Threatened Citizen Suit - Sierra Club, Enola, PA.
Under the citizen suit provisions of the Clear Water Act, the Sierra Club has given the required 60-day advance notice that it intends to file suit against Conrail for alleged violations of Conrail's discharge permit at its Enola Yard. The Sierra Club's data is outdated and corrective action has and is being taken. Any suit which is brought would likely seek $10,000 per day of violation over a five year period. Conrail's chances of prevailing are good, particularly since Conrail and the Pennsylvania Department of Environmental Resources are negotiating to enter into a consent order.

Federal and state laws require the Company to install certain water pollution control facilities at many of the Company's sites. In some cases the Company is conducting investigations or preparing plans and schedules to install equipment or clean-up contamination at these locations in order to comply with the law. In other cases, the Company is negotiating with environmental agencies to effect alternative abatement measures. The cost of compliance is substantial. Failure to comply may subject the Company and its personnel to criminal action and monetary penalties.

It is reasonably possible that the Federal Environmental Protection Agency (EPA), its state counterparts, or public interest groups acting under the citizen suit provisions of the environmental statutes will assert that some or all of these actions should have been taken by July 1, 1977. EPA imposed penalties might be based on the amount that the Company "saved" (measured, probably, by the time/use of money) by not making the improvements within the prescribed time period. As of April 1, 1984, this would amount to approximately $2,000,000 which has not been accrued. The environmental agencies might also seek criminal monetary penalties and/or imprisonment against the Company and its personnel, although the Company's progress in achieving compliance make it more likely that civil penalties would be considered as an alternative. The maximum amount these penalties could reach would be $10,000 per day per violation, potentially dating back to at least 1977.

The estimated costs of facility modifications for satisfaction of air, water, and solid waste requirements, is approximately $16 million, most of which would be capitalized when incurred and depreciated over future periods. The estimated cost of facility clean-up expense could reach $10 million; however, it is remote that it will reach this magnitude.

G. Asbestos Claims

As of April 30, 1985 the Company was named as a defendant in 259 lawsuits filed by persons alleging personal injury or death caused by exposure to asbestos in connection with railroad employment.

In addition to these lawsuits, the Company has notice of 194 possible claims, which have not yet ripened into litigation. The plaintiffs in these cases are either persons who were employed by the railroads whose rail assets were conveyed to the Company on April 1, 1976 and who retired before such conveyance, or persons employed by such railroads whose railroad employment continued with the Company after conveyance.

The Company maintains that it cannot be held liable for injuries resulting from exposure to asbestos which occurred prior to conveyance.

The Company has entered into an agreement with The Penn Central Corporation whereby the parties have agreed that any liability ultimately imposed in these cases will be apportioned between them on the basis of the length of the exposure of the plaintiff. This agreement provides that Penn Central will bear all liability and costs imposed with respect to plaintiffs who were employed only by Penn Central and who were never employed by the Company. If plaintiffs were employed by both companies, any liability will be apportioned according to length of exposure to asbestos with each company. Penn Central is currently reviewing the agreement. At this time, 222 lawsuits filed by former Penn Central employees, at least 105 of which appear to represent persons who also worked for the Company, are pending.

To date, 17 lawsuits have been filed by former employees of the The Reading Company, 12 of which appear to represent persons who also worked for the Company. The federal district court in Philadelphia dismissed the claims against Reading on the basis that the claims were discharged by the Reading's reorganization proceedings. The Company appealed this decision and has also sought a ruling by the Special Court that the Company is not liable for illnesses of former Reading employees by reason of exposure to asbestos during pre-conveyance employment with Reading. USRA and the U.S. government joined the Company in this litigation.

To date, 6 lawsuits have been filed by former employees of the Central Railroad Company of New Jersey (CNJ) now reorganized as Central Jersey Industries (CJI), 4 of whom are former employees of the Company. The CNJ/CJI denies its liability for these claims and its contentions were sustained by its reorganization court. The Company has appealed the decision of the Reorganization Court and the appeal was heard by the Third Circuit Court of Appeals at the same time that the Court heard the Reading Appeal, on December 13, 1984.

On March 29, 1985, the United States Court of Appeals for the Third Circuit reversed the district courts' dismissal of the Reading Company and CNJ/CJI from FELA lawsuits brought against them by their former employees.

The Court of Appeals concluded that, since the plaintiffs' injuries did not manifest themselves until after the consummation date of the bankrupts' reorganization, the claims were not discharged by reason of reorganization. The Court reasoned that it would have been absurd "to have expected plaintiffs, who allegedly had manifested no injury at the time of the reorganization proceedings, to file claims for such injury in those proceedings."

On April 26, 1985 the Third Circuit en banc denied reargument and denied the motion of Amatex for leave to file a memorandum of law in support of CNJ's petition. It is expected that Reading will attempt to obtain review of the Third Circuit decision by the Supreme Court. Reading's petition must be filed by June 27, 1985.

There are presently 10 suits pending filed by former employees of the Erie Lackawanna Railroad, 9 of whom are former employees of the Company. The Company believes that Erie's Plan of Reorganization provided adequate means to satisfy asbestos related claims which have been or will be filed by former Erie employees. Erie's position is that former employees are barred by the Erie Reorganization Court's Consummation Order from asserting occupational disease claims against the Erie and has filed a motion seeking a ruling by the Reorganization Court to that effect. The Company has opposed the Erie's motion.

The Special Court has postponed argument on the issue of whether Conrail is a successor to the Erie-Lackawanna and Reading Company and, therefore, liable for all damages to employees who contacted occupational diseases as a result of their employment with these predecessor companies. The Special Court entered an Order staying the pretrial and trial of all occupational disease cases brought by employees against Conrail or one of its predecessor companies until a final Order has been entered in the 3rd Circuit Court of Appeals from Orders entered by the CNJ and Reading Reorganization Courts.

Six lawsuits have been filed by former employees of the Lehigh Valley Railroad, 5 of whom are also former employees of the Company. Since Lehigh Valley has reorganized as a subsidiary of Penn Central, it is anticipated that a position similar to that of Penn Central will be applied.

Manufacturers of asbestos products have sued Conrail as third party defendant in 35 lawsuits: 26 in the Court of Common Pleas, Allegheny County, Pennsylvania; 1 in the U. S. District Court for the Western District of Pennsylvania; 1 in the Court of Common Pleas, Philadelphia County, Pennsylvania and 7 in the Superior Court of Delaware, New Castle County.

A reserve of $4.5 million was recorded in 1982 for the Company's probable exposure under the agreements with Penn Central and Reading. Management also believes that any loss in excess of the amount accrued would not have a material impact on the financial statements if the Company is successful in the assertion of its position that it is not liable for injuries sustained prior to April 1, 1976.

Although the Company's exposure could approach or even exceed $100 million for all asbestos related cases (both asserted and unasserted), it is management's opinion that it would be remote that the Company's liability would reach this level.

H. Federal Employers' Liability Act: Hearing Loss Litigation

One hundred twenty-four Federal Employers' Liability Act hearing loss suits have been filed against Conrail in the Supreme Court of New York, Erie County and twenty-six have been filed in the U.S. District Court for the Western District of New York at Buffalo. Twenty have been filed elsewhere and many others are anticipated. Plaintiff employees allege that they sustained traumatic hearing loss as the result of sustained exposure to environmental noise in their work place, including shops and locomotives. Most contend that such exposure to injurious noise extended over many years during which they were employed by the predecessor bankrupt railroads as well as Conrail. Because of the time span involved in the exposure and the complex medical issues, this litigation has necessitated a massive document search into operations, safety, environmental, claims, and medical records, a number of which were developed pursuant to court orders in the federal cases. Pretrial statements were filed in the initial cases on April 19th.

I. Black Lung Benefits Act

Under this Act, claimants who have worked (1) in or around a coal mine or coal preparation facility, and (2) in the extraction, preparation or transportation of coal, or in coal mine construction or coal mine maintenance, may be entitled to benefits. Railroad employees who meet the above criteria would be eligible for coverage under current Department of Labor interpretations of the Act.

At the present time, the Company has two potential areas of exposure under this Act:

(1) Claims by retired employees of the former railroads whose property the Company acquired. Approximately 75 such claims have been asserted of which 40 have been dismissed. The Company's position is that it is not liable for these claims based on the language of the Regional Rail Reorganization Act, the intent of the Black Lung Benefits Act (BLBA) and the ability of the

estates or reorganized companies of the predecessor lines themselves to pay the claims.

(2) Company employees who contract black lung disease may file claims against the Company either under the Black Lung Act or under the Federal Employers' Liability Act (FELA). The Company has been successful in defending a number of employee claims under the Black Lung Benefits Act by proving that the employee did not qualify as a miner under the Act. However, twenty-six law suits have been filed under the FELA where damages could be higher. Funds have been accrued for this expense in conjunction with the personal injury claims.

A Federal District Court in Kentucky ruled that neither railroad employees nor railroads fall within the purview of the Black Lung Act and enjoined the Secretary of Labor from pursuing such claims against railroads. The Secretary appealed (Louisville & Nashville RR, et al. v. Donovan) to the United States Court of Appeals, 6th Circuit and on August 12, 1983, the Court of Appeals held that the District Court lacked jurisdiction to decide the matter and remanded the case for dismissal of the injunction, commenting in addition that the District Court was wrong concerning applicability of the Act to railroads. A petition for writ of certiorari from the U. S. Supreme Court was denied, leaving the Company to proceed before the Department of Labor in each case in which an individual asserts a claim under the Black Lung Act.

J. Staggers Act Complaints

Under the provisions of Section 229 of the Staggers Act, shippers were allowed 180 days (October 1, 1980 to March 30, 1981) to file complaints challenging the reasonableness of rates that were in effect on October 1, 1980. During that period, 251 complaints involving rates that involve the Company were submitted to the Commission, but eighty percent of those complaints have since been settled with no liability being incurred by the Company. The total amount of the remaining claims, the majority of which cover coal traffic, has not been determined.

Of the remaining claims, approximately half are being negotiated and, in management's opinion, will probably be settled in a similar manner as the previous claims. Although it is probable that the Company will lose some of the claims not currently being negotiated, the exact amount cannot presently be forecasted. An estimate of the worst case exposure for these claims assuming retroactive application as of the date filed for the 3-year statute of limitations and for the period through July 1, 1984 is approximately $35 million. The Company has accrued $8,093,000 to cover complaints arising under the Staggers Act.

K. Hansen v. N & W, et al.

The complaint charges the defendants, including the Company, with violations of the Interstate Commerce Act, the Elkins Act and antitrust laws. Plaintiff seeks $10 million in compensatory damages and $30 million in punitive damages. The exact time period covered by these alleged violations is not known at this time.

The initial complaint was addressed only to the Norfolk & Western Railway (N&W) and its motor carrier connections. The amended complaint, in addition thereto, named, as defendants, the Company and nine additional railroads.

The complaint appears to revolve around the legality of the operational arrangements of the N&W in providing substituted highway service for rail TOFC service between Danville, Illinois and Lafayette, Indiana. The traffic involved apparently originates or terminates on the N&W in the State of Indiana.

On motion of the Company and other defendants the complaint was dismissed. Plaintiff appealed and the Court of Appeals sustained the lower court's finding that the ICC had primary jurisdiction, but reversed the order dismissing the case. The Court of Appeals directed the lower court to stay the proceeding pending review of the litigation by the ICC. Hansen then filed its complaint with the ICC, which the ICC subsequently dismissed. Motions to Dismiss are now pending in the District Court.

L. Present and Potential Personal Injury and Property Damage Claims

When claims are asserted against the Company for loss and damage to property and for personal injuries or accidents, estimates of the Company's potential liability are made and the amount is charged to operating expenses. These estimates are continually reviewed and any required adjustments are booked to the Income Statement.

As of November 30, 1984, the Company accrued approximately $150 million for personal injuries and approximately $5 million for property damage, exclusive of freight loss and damage. Approximately 55% of these accruals represent claims estimated to be payable within one year, while the remainder relates to claims that remain unsettled estimated to be payable after one year.

M. Pension Issues (Agreement Employees - Title V)

Title V of the Rail Act (since repealed by the Northeast Rail Service Act of 1981, or "NERSA") provided pension benefit protection to certain Amtrak agreement employees formerly employed by the Company or the Company's predecessors. Title V did not explicitly state the scope of this protection. However, it is the

Company's interpretation of the Rail Act that Amtrak is responsible for providing any such required protection.

In apparent agreement with the Company's position, and in order to provide some level of protection to these employees, Amtrak adopted a pension plan ("the Amtrak Plan") covering "Title V Protected Union Employees."

After NERSA repealed Title V of the Rail Act, Amtrak's Board of Directors terminated that pension plan and directed that arrangements be made with an insurance company to purchase annuities representing the pension credits earned by such employees for their Amtrak service. Accordingly, almost all such employees will eventually receive two pension checks: one from the Conrail Plan and one from the insurance company selected by Amtrak. However, because the final levels of compensation earned at Amtrak by such employees will not be used to calculate their Conrail Plan pension benefits, and for other reasons relating to the Amtrak Plan's benefit formula, the sum of these two pension checks will be less than the sum such employees would have received if their Conrail/predecessor railroad service had continued until retirement.

It is reasonably possible that claims for additional pension benefits may be asserted in the future against Conrail, Amtrak, and/or those companies' pension plans. It is management's belief that Amtrak would be solely liable in this regard because the Rail Act required Amtrak to protect the pension benefits of Title V protected employees transferred to Amtrak. Management also believes that all such claims are now precluded from assertion by NERSA's requirement that no claims under the now-repealed Title V will be honored unless filed by December 1, 1981, except for claims premised upon arbitration decisions. However, management is unable to predict the outcome of litigation on these points. Management is also unable to estimate the amount of liability which could be involved in connection with these issues.

N. NERSA State Tax Exemption

NERSA exempted the Company from taxes imposed by states, although not political subdivisions (counties, municipalities) of states, until such time as the common stock or assets of the Company are sold pursuant to NERSA. The State of New Jersey has filed a complaint in Special Court - Regional Rail Reorganization Act of 1973 challenging the constitutionality of NERSA. While New Jersey is only demanding relief slightly in excess of $5 million dollars, the ramifications of the NERSA state tax exemption being declared unconstitutional exceed $50 million dollars.

O. Transfer of Commuter Operations

On December 31, 1982 the Company received a letter from the Connecticut Department of Transportation (CDOT) and the Metropolitan Transportation Authority (MTA) reserving the rights of those entities to make claims against the Company for damages which they

allege they will sustain on or after January 1, 1983 by virtue of the Company's transfer to those entities of the commuter rail operations and the Company's cessation of operations in accordance with the New Haven Suburban Train Service Agreements and the Harlem-Hudson Suburban Passenger Train Service Agreements. At the present time the Company believes that it is unlikely that any litigation will be instituted by CDOT and/or MTA. However, MTA and CDOT filed a counterclaim seeking to join the U.S. and hold if financially responsible our trackage right dispute with Metro-North Commuter Railroad. The Special Court dismissed the counterclaim, but gave Metro-North the right to file an amended counterclaim for loss of benefits under the contracts as a result of NERSA. (Item R hereof.) The amended counterclaim was filed and the United States has moved to dismiss that petition.

P. Port Authority Trans-Hudson Corporation

In 1967, the Pennsylvania Railroad ("PRR") leased certain road and track facilities in Hudson and Essex Counties, New Jersey, to the Port Authority Trans-Hudson Corporation ("PATH"). As part of that agreement, the PRR retained the road and track supporting structures and the maintenance responsibility for both the leased and non-leased facilities. Penn Central, as successor to PRR, conveyed these leased facilities to the Company. Since April 1, 1976, the Company has collected the rent from PATH due under the lease - an amount slightly in excess of $100,000 per year, but wholly insufficient to cover the maintenance responsibility under the PATH lease.

PATH has sued the Company in two separate actions seeking to require the payment by the Company of amounts necessary to rehabilitate the Hackensack River Bridge (a bridge carrying rail traffic over the Hackensack River) and the Chestnut Avenue Bridge (a bridge carrying a highway over the PATH and Company rights of way). PATH seeks approximately $12,356,000. The Company has established a reserve of approximately $8.3 million.

While the Company has taken the position in these two cases that the PATH lease and maintenance agreement were not conveyed to the Company by Penn Central, it is unlikely that the Company would be successful in defending the two cases. The Company and PATH have agreed to terms that would settle these disputes within the limits of the reserve. A Settlement Agreement was executed September 24, 1984. The parties are negotiating property transfer and Operating Agreement.

Q. Annual Update of Car Hire Charges

The AAR asked the ICC to modify the car hire formula and suspend further updates of the car hire ("per diem") charges until the formula is modified. The 1984 annual update would have increased these charges approximately 33%, representing a $30 million net increase for Conrail for the period April through December 31, 1984. On December 13, 1983, the AAR petitioned the

ICC to freeze the per diem level until all issues related to its calculation (formula) are resolved, submitting several affidavits in support of that petition. The ICC, by decisions served April 29, 1985, has tentatively concluded that there should not be any 1984 update for car hire charges and that all subsequent updates should be suspended pending completion of Ex Parte 334 (Sub-No. 6), Review of Car Hire Regulation.

R. Metro-North Commuter Railroad

The Metro-North Commuter Railroad (MCR) has asserted that the Company must now pay MCR for freight trackage rights over tracks that run between New York and New Haven and New York and Poughkeepsie (Metro-North). Initially, Penn Central Transportation Company retained the freight trackage rights in Metro-North area. When the Company was formed, Penn Central transferred all the freight trackage rights for Metro-North area to the Company along with the obligation to run the commuter rail service in this area. MCR claims that the Northeast Rail Service Act of 1981 (NERSA) extinquished the Company's free trackage rights when NERSA mandated that the Company discontinue commuter service. The Company maintains that its free freight trackage rights continue, and that NERSA had no impact on these trackage rights. MCR alleges that the Company should pay for freight trackage rights on a fully allocated cost basis, which MCR estimates will be approximately $13 million dollars annually. In the alternative, MCR asserts that the Company would be required to pay for the trackage rights, based upon MCR's avoidable costs, which MCR approximates to be $3.5 million dollars annually, depending upon the volume of traffic. The Company maintains that even if MCR were to prevail in its argument, the Company would only be required to pay a standard trackage charge of no more than 20 cents per car mile, which the Company estimates will be no greater than $1.3 million dollars annually depending upon the volume of business.

The Company and MCR have entered into an interim trackage rights agreement permitting trains to "operate" but postponing resolution of compensation. The Company filed a complaint with the Regional Rail Reorganization Special Court to resolve this dispute. As a result the Court has entered an Order favorable to the Company which confirms the free trackage rights. However, the agencies were authorized to proceed against the United States for damages and also may petition the Supreme Court for review. The Company is reserving approximately $1.3 millions dollars a year pending the final outcome of this case. It should be noted that MTA is operating its passenger trains over Conrail lines between Port Jervis and Suffern, New York. The amount due to the Company for these trackage rights from MTA would be used as an offset to the amount due MCR.

Management estimates the "worst case" annual exposure to be approximately $13 million dollars. However, it is management's opinion that it would be remote that the Company's liability would ever reach this level.

S. Labor Contribution Agreement-Wage Deferral Dispute

In 1981, all of the unions representing employees of the Company signed an agreement providing for, among other things, a wage hold-down of 12% based on the wage settlements reached on a national level. In February 1985 all of those unions except one signed an agreement which returned the employees represented by those unions (approximately 76.4% of Conrail's agreement employees) to industry level wages.

While the Railway Labor Executives Association (RLEA) still views the wage deferral as a liability of the Company, the Company believes that this is not the case.

Neither the RLEA nor any union has threatened litigation on this issue, and the Company believes that the probability of an unfavorable litigation outcome is remote. However, the Company believes that it will be required to spend a significant amount to satisfy labor's wage-related demands in the context of the sale of the Company.

No reserves have been established for this item. The Company's latest estimate of the Worst Case outcome in this matter is approximately $380 million.

T. Grand Trunk Antitrust Litigation

On May 15, 1984, the Company filed a lawsuit in the United States District Court for the Eastern District of Pennsylvania. The Company sought a declaratory judgment respecting its contractual rights and obligations vis-a-vis the Grand Trunk Western Railroad (GTW) and a declaration that its behavior with respect to certain rate cancellations and related activities did not violate the antitrust laws. The next day, GTW brought suit in the United States District Court for the Eastern District of Michigan alleging as antitrust violations the very matters which have been the subject of the Company's request in Pennsylvania for declaratory relief. Each party sought dismissal of the other's actions, and on August 20, 1984, the Pennsylvania Court dismissed the Company's action, thus permitting the Michigan action to proceed.

In the Michigan proceeding, GTW asked the Court to declare that certain of the Company joint rate cancellations and increases in its charges for reciprocal switching service are in violation of the antitrust laws, to enjoin the Company from engaging in such actions, and to enter a judgment against the Company in an amount "in excess of $10,000,000."

The Company denied these allegations, raised numerous defenses against them, and requested that the complaint be dismissed. In addition, the Company filed a counterclaim, asking the Court to enter a judgment voiding certain agreements between the Company and GTW, interpreting the Company's rights and obligations under

the agreements between the Company and GTW, and declaring that joint rate cancellations and certain related pricing activities are not violations of the antitrust laws.

The Company is now engaged in an extensive discovery and deposition process and is vigorously defending against GTW's claims. Moreover, the Company believes that its position in this litigation is meritorious.

TRAILER TRAIN
COMPANY

101 NORTH WACKER DRIVE · CHICAGO, ILLINOIS 60606
(312) 853-3223

EXHIBIT TWO (2)

November 21, 1984

Consolidated Rail Corporation
Six Penn Center Plaza
Philadelphia, Pennsylvania 19103
Attn: Assistant Vice President & Treasurer

Gentlemen:

Trailer Train Company, a Delaware corporation ("Trailer Train"), is the owner, pursuant to various equipment trusts or conditional sale financings, or lessee pursuant to a lease or leases, of certain flatcars which are identified on Schedule A attached hereto (hereinafter called the "Flatcars"). The Flatcars are furnished by Trailer Train to the Consolidated Rail Corporation (the "Lessee") pursuant to a Form A Car Contract between them (the "Car Contract").

Trailer Train understands that the Lessee proposes to lease from (the "Lessor") hundred new auto racks (the "Racks") manufactured by Trailer Train further understands that the Racks are to be welded or otherwise affixed to the Flatcars, one rack for each Flatcar.

Trailer Train hereby agrees as follows:

1) The Racks shall not at any time be deemed by Trailer Train to constitute fixtures or accessions to the Flatcars; and the Racks shall not become subject to any security interest Trailer Train may have granted in any mortgage, loan agreement, indenture, equipment trust or other agreement.

2) The Lessor directly or through its agents, shall have the right to remove the Racks from the Flatcars following the occurrence of an event of default under the Lessor's lease, or upon the expiration of the Lessor's lease, provided however, that the Lessor shall give written notice of such intention to

remove the Racks to Trailer Train at its principal office at 101 North Wacker Drive, Chicago, Illinois 60606, Attention: Vice President-Equipment. Such removal shall be without cost and expense to Trailer Train and shall be effected in such manner as to minimize any damage to the Flatcars and shall not materially impair the Flatcars or the value thereof and shall be made in accordance with the Car Contract.

3) The cost or purchase price of the Racks or any unit thereof was not and is not included in the purchase price of any of the Flatcars, and none of the Racks is required for the operation or use of the Flatcars by the Interstate Commerce Commission, the United States Department of Transportation or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Flatcars. Trailer Train has not permitted and will not permit any of the Racks to be attached or affixed to any of the Flatcars so as not to be readily removed from such Flatcar without materially impairing such Flatcar or the value thereof.

4) Nothing in this Agreement shall affect the rights and liabilities of Trailer Train and the Lessee under the Car Contract which shall be controlling as to the parties thereto in all matters to which it relates.

5) Trailer Train will not by virtue of this Agreement contravene any mortgage, loan agreement, indenture, equipment trust, or other agreement including but not limited to the agreement or agreements which Trailer Train has heretofore entered into in connection with the acquisition and financing of the equipment set forth on Schedule A to which it is a party.

Very truly yours,

TRAILER TRAIN COMPANY

By: _____
Treasurer

EXHIBIT THREE (3)

ASSIGNMENT OF PURCHASE AGREEMENT

Dated October 21, 1985

CONSOLIDATED RAIL CORPORATION ("Lessee") has executed and delivered the purchase agreement listed in Exhibit A attached hereto, to the vendor shown in Exhibit A ("Purchase Order"), which Purchase Order covers the equipment described in Exhibit A ("Equipment").

Lessee desires to assign to MERCANTILE TRUST COMPANY, N.A. ("Lessor") all of Lessee's rights under the Purchase Order so that Lessor might purchase and take title to the Equipment and lease the Equipment to Lessee pursuant to a lease ("Lease") executed or to be executed by Lessor and Lessee.

Lessor and Lessee agree as follows:

1. Lessee (a) acknowledges that the Purchase Order represents the entire understanding of the parties thereto with respect to the purchase and sale of the Equipment covered thereby and that there has been no amendment or change to the Purchase Order; and (b) assigns to Lessor all of its right, title and interest in and to the Purchase Order, the Equipment, and any and all warranties, representations and indemnities, whether written or oral, or express or implied with respect to the Purchase Order or the Equipment.

2. Lessor does not assume any of Lessee's obligations under the Purchase Order, except the obligation to pay

the purchase price of the Equipment; provided, however, that Lessor's obligation to pay the purchase price is subject to all of the following conditions: (a) the Equipment shall have been delivered to, and accepted by, Lessee pursuant to the terms of the Lease, and shall have been installed if required under the terms of the Purchase Order, and (b) Lessor shall have received a bill of sale or invoice or such other documents or instruments as Lessor deems appropriate or necessary to evidence the transfer of title to the Equipment to Lessor. Lessee shall remain liable for the performance of all its obligations under the Purchase Order and Lessee agrees to hold Lessor harmless and indemnify Lessor from all liability, loss, damage and expense (including, without limitation, actual attorneys' fees) incurred by Lessor arising from or directly or indirectly attributable to such obligations.

3. Lessee warrants that its title to the Purchase Order and the Equipment covered thereby is free from all claims, liens, encumbrances or security interests in favor of any party other than Lessor.

The parties have duly executed this Assignment as of the date opposite their respective signatures.

DATED:_____, 1985. CONSOLIDATED RAIL CORPORATION

By:_____

TITLE:_____

DATED:_____, 1985. MERCANTILE TRUST COMPANY, N.A.

By:_____

Title:_____

EXHIBIT A

to Assignment of Purchase Agreement

dated October 21, 1985

Purchase Order
Description

Vendor Thrall Manufacturing Company

No. PA-8-PHW

Date September 20, 1985

Equipment Description

100 fully enclosed tri-level auto racks (for GM service) applied to cars furnished by buyer.

50 fully enclosed tri-level auto racks (for Ford service) applied to cars furnished by buyer.

50 fully enclosed tri-level auto racks (for Chrysler service) applied to cars furnished by buyer.

Lessee: CONSOLIDATED RAIL CORPORATION

Lessor: MERCANTITLE TRUST CO., N.A.

By:_____

By:_____

Title:_____

Title:_____

CONSENT AND AGREEMENT

The undersigned, THRALL CAR MANUFACTURING COMPANY ("Seller"), hereby acknowledges notice of and consents to the foregoing Assignment of Purchase Order; confirms to Lessor that all representations, warranties, indemnities and agreements of Seller with respect to the Equipment under the Purchase Order or otherwise, whether written or oral, or express or implied, shall, subject to the terms and conditions thereof, inure to the benefit of Lessor to the same extent as if Lessor were named a party therein; and warrants that it has title to the Equipment free and clear of all claims, liens, encumbrances or security interests excluding any created by Lessee.

DATED:_____, 1985.

SELLER: THRALL CAR MANUFACTURING COMPANY

By:_____

Title:_____

26th and State Street

Chicago Heights, IL 60411
(address)

EXHIBIT FOUR (4)

# ASSIGNMENT OF PURCHASE AGREEMENT

Dated October 21, 1985

CONSOLIDATED RAIL CORPORATION ("Lessee") has executed and delivered the purchase agreement listed in Exhibit A attached hereto, to the vendor shown in Exhibit A ("Purchase Order"), which Purchase Order covers the equipment described in Exhibit A ("Equipment").

Lessee desires to assign to MERCANTILE TRUST COMPANY, N.A. ("Lessor") all of Lessee's rights under the Purchase Order so that Lessor might purchase and take title to the Equipment and lease the Equipment to Lessee pursuant to a lease ("Lease") executed or to be executed by Lessor and Lessee.

Lessor and Lessee agree as follows:

1. Lessee (a) acknowledges that the Purchase Order represents the entire understanding of the parties thereto with respect to the purchase and sale of the Equipment covered thereby and that there has been no amendment or change to the Purchase Order; and (b) assigns to Lessor all of its right, title and interest in and to the Purchase Order, the Equipment, and any and all warranties, representations and indemnities, with respect to the Purchase Order or the Equipment.

2. Lessor does not assume any of Lessee's obligations under the Purchase Order, except the obligation to pay

the purchase price of the Equipment; provided, however, that Lessor's obligation to pay the purchase price is subject to all of the following conditions: (a) the Equipment shall have been delivered to, and accepted by, Lessee pursuant to the terms of the Lease, and shall have been installed if required under the terms of the Purchase Order, and (b) Lessor shall have received a bill of sale or invoice or such other documents or instruments as Lessor deems appropriate or necessary to evidence the transfer of title to the Equipment to Lessor. Lessee shall remain liable for the performance of all its obligations under the Purchase Order and Lessee agrees to hold Lessor harmless and indemnify Lessor from all liability, loss, damage and expense (including, without limitation, actual attorneys' fees) incurred by Lessor arising from or directly or indirectly attributable to such obligations.

3. Lessee warrants that its title to the Purchase Order and the Equipment covered thereby is free from all claims, liens, encumbrances or security interests in favor of any party other than Lessor.

The parties have duly executed this Assignment as of the date opposite their respective signatures.

DATED:_____, 1985. CONSOLIDATED RAIL CORPORATION

By:_____

TITLE:_____

DATED:_____, 1985. MERCANTILE TRUST COMPANY, N.A.

By:_____

Title:_____

EXHIBIT A

to Assignment of Purchase Agreement

dated October 21, 1985

Purchase Order
Description

Vendor Greenville Steel Car Company

No. PA-6[1]-PHW

Date August 16, 1985

Equipment Description

100 Fully enclosed bi-level auto racks (50 for Ford Service-50 for Chrysler Service) applied to cars furnished by buyer.

Lessee: CONSOLIDATED RAIL CORPORATION

Lessor: MERCANTITLE TRUST CO., N.A.

By:_____

Title:_____

By:_____

Title:_____

CONSENT AND AGREEMENT

The undersigned, GREENVILLE STEEL CAR COMPANY ("Seller"), hereby acknowledges notice of and consents to the foregoing Assignment of Purchase Order; confirms to Lessor that all representations, warranties, indemnities and agreements of Seller with respect to the Equipment under the Purchase Order or otherwise, shall, subject to the terms and conditions thereof, inure to the benefit of Lessor to the same extent as if Lessor were named a party therein; and warrants that it has title to the Equipment free and clear of all claims, liens, encumbrances or security interests excluding any created by Lessee.

DATED:_____, 1985.

SELLER: GREENVILLE STEEL CAR COMPANY

By:_____

Title:_____

Greenville, PA 16125
(address)